



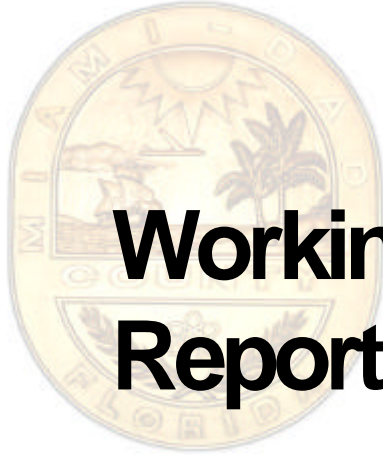
*e-procurement*

# WORKING GROUP REPORT OF FINDINGS

*e-procurement:*  
focus on the citizen

Miami-Dade County  
Office of the Chief Information Officer

## e-procurement



# Working Group Report of Findings

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*e-procurement: focus on the citizen*

# **Prepared by Miami-Dade County e-Procurement Working Group December 2000**

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Assia Alexandrova, Office of the Chief Information Officer

Sherrilyn Bain, Department of Procurement Management

Anne Cates, Solid Waste Management Department

Dea Martinez, Department of Parks & Recreation

George Solli, Department of Procurement Management

Orlando Suarez, Information Technology Department

The e-Procurement Working Group extends its appreciation to those members of the technology industry that assisted us in our e-procurement market research by responding to RFI #7 (See Appendix H) and to those that presented their demonstrations to our members (See Appendix I).

The e-Procurement Working Group wishes to acknowledge the support and dedication of Margarita Guzman Rodriguez, Department of Procurement Management, for providing administrative support; and of Carlos Scull for providing graphic and technical support.

## Executive Summary

This report represents the finds of the Chief Information Officer's e-Procurement Working Group. Currently the Miami-Dade County Department of Procurement Management (DPM) displays on the Internet in a PDF format file the Vendor Application and the list of Solicitations Advertisements that can be downloaded by interested parties.

### Recommendations:

*In the areas of policy and legislation, business processes, and technology, the Working Group makes the following general recommendations:*

- Miami-Dade County should seek to have an integrated approach (compatible with current systems) with a vendor and its partners, or a sole vendor, as an "integrator" who will answer to Miami-Dade County, instead of multiple independent contracts for the various portions of the e-procurement solution. Public sector purchasing has requirements and processes that are quite different from those of the private sector. It would be to Miami-Dade County's advantage to engage a vendor (s) with proven public sector purchasing expertise as well as the appropriate technology expertise. The vendor(s) must utilize open standard technology that will allow Miami-Dade County to integrate applications that may be acquired in the future.
- Miami-Dade County should use an open standard technology.
- Miami-Dade County should explore alternative contractual relationships with e-procurement vendors that minimize County's up-front investment.
  - Based on historical procurement expenditures and projected annual procurement expenditures, a fee to the supplier can be calculated that will allow a reasonable profit margin to the e-procurement vendor without unduly charging the suppliers.
  - The fee would have to take into consideration the ownership of the software/application, hosting services provided by the e-procurement vendor, technical assistance provided by the e-procurement vendor to Miami-Dade County and to the suppliers (including exposure to other markets).
  - The fee structure should include a ceiling beyond which all, or a major portion of all, fees generated would be earned by Miami-Dade County.
- Use an incremental and evolutionary strategy that will allow Miami-Dade County to quickly deploy on the Internet those functions that do not require policy/legislative changes. Additional functions should be added as the required policy/legislative changes are made.

### Implementation Strategy:

Analysis of Current System (done)

Analysis of Currently Unmet Needs (done)

Analysis of Solution Alternatives (partially done)

Analysis of Procurement Method Alternatives (partially done)

## Incremental and Quick Deployment of Selected e-Procurement Solution (s)

Short-term solutions (to be completed within 6-9 months)

Mid-Long term solutions (to include pilot demonstrations), (to be completed within 9-18 months)

### Analysis of System Improvements

- Provide technical e-procurement assistance to small and local suppliers.
  - Conduct a survey of small/local Miami-Dade County suppliers to ascertain what type of assistance, if any, these businesses require in order to conduct business on line with Miami-Dade County.
  - Collaborate with trade associations, chambers of commerce, economic development corporations, community based organizations, etc. to identify existing computers with Internet connections, and to place additional computers with Internet connections in the community, and Miami-Dade County departments where space and security permit it, for use by the vendor public.
  - Continue to provide technical support to Suppliers through a virtual Vendor Information Center (VIC) where questions can be received from Suppliers and answered on- line for the public in general.
- During the transition to a fully electronic solution, Miami-Dade County should maintain a dual manual/electronic system. Miami-Dade County should establish a policy that clearly states the length of time Miami-Dade County would be willing to maintain a dual system. Host a Suppliers Conference to acquaint the small and local businesses with the new steps Miami-Dade County is taking towards the Internet and an electronic procurement solution.
- Adapt County business processes to suit the e-procurement solution acquired by Miami-Dade County to facilitate implementation, to simplify the purchasing system, and to reduce the County's long term costs.
- Special considerations should be given, during the selection and implementation of short and mid-term solutions, to e-procurement systems with the added capability of interacting with Miami-Dade County's internal legacy systems (ADPICS and FAMIS). During the selection of long-term solutions, an evaluation of these legacy systems should be made to determine if they need additional enhancements or should be replaced.

While most vendors provide similar functionality, several features seen during the research and vendor demonstrations appear to be unique to specific vendors yet their inclusion in Miami-Dade County's total e-procurement solution should be considered due to their particular usefulness.

- Wireless technology – hand-held devices used for scanning merchandise received. These devices can be used to create Receiving Reports as well as for inventory control.
- Re-routing of procurement documents, or issuance of an alert to a supervisor (within the approval path) if a document is overdue or remains inactive for a specified period of time. This alert can be useful to supervisors in managing their staff and corresponding workloads.

- Bidders Information Page – Posts on line all questions and answers regarding particular solicitations in process. This feature would also assist in preserving compliance with the Cone of Silence Ordinance.
- Surcharge fee based catalogs – Displays Miami-Dade County contract prices for use by Miami-Dade County staff (access based on user ID). It displays prices charged by the vendor to other governmental entities, based on current 2% Surcharge fee, imposed by Miami-Dade County to other governmental and quasi-governmental entities that access the terms and conditions of our contracts. This would facilitate tracking of purchases where the Surcharge fee is applicable, and the collection of such fees from the vendor.



*In the areas of policy and legislation, business processes, and technology, the Working Group makes the following detailed recommendations:*

*Recommendations involving the placement of information and documents on the County website / web portal:*

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1. Distribute bid/proposal announcements online
2. Post solicitation packages and amendments online
3. List recent contract awards online
4. List current County contracts online (interactive)
5. Advertise public vehicle auctions online
6. Create an online library of relevant policies, legislation, and other reference materials to include: A.O.s, ordinances, resolutions, and sections of the County Code
7. Publish State/County vendor debarment and suspension lists online
8. Publish relevant County procurement policies, legislation, and other reference materials online
9. Publish e-Procurement guidance and instructions online
10. Make available information links to resources for local and small businesses
11. Request that the office of the Clerk of the Court accept e-mail copies of prospective Proposers' inquiries to Procurement Officers

*Recommendations that require 1) new software applications, and/or 2) large-scale consolidation of County data, 3) the implementation of other features, and/or (4) require legislative changes:*

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12. Develop an expedited IT purchasing process
13. Perform vendor registration online (interactive)
14. Perform technical and small business/minority certification online (interactive)
15. Receive bid and proposal submissions online
16. Make contract awards and issue purchase orders online
17. Enable registered vendors to place their "catalogs" online, viewable by County buyers and purchasing agents
18. Enable County departments to execute small purchase orders online with purchasing (credit) cards
19. Conduct auctions online
20. Utilize wireless technology (inventory management)
21. Establish a priority notification system of alerts or updates for vendor and staff benefit
22. Make various County databases accessible to procurement staff
23. Enable electronic transmittal of technical specifications among county departments, suppliers, and DPM
24. Evaluate need to enhance or replace the County's current procurement system (ADPICS)

## Introduction to e-Procurement

Public sector procurement is a large and complex business that attempts to meet many, sometimes conflicting, objectives. Suppliers, ordering departments, as well as professional procurement agents and contracting officers tend to be dissatisfied with the process. The major complaints are that public sector procurement is too slow, has too many requirements, and often times commodities could be purchased at lower prices if they were purchased off-contracts. Unlike private sector procurement, public sector procurement must work within regulations and policies established to accomplish desirable social as well as economic goals. Public sector procurement emphasizes inclusiveness and broad competition instead of using a small number of suppliers with whom a trusted relationship has been established. e-procurement solutions are seen as a way to meet some of the above concerns. e-procurement can provide increased efficiency in the business processes as well as significant cost savings.

With the rapid advance of the Internet, Miami-Dade County should aggressively utilize this medium to provide better service to the ordering departments (our customers) and to our suppliers, while decreasing the cost of doing business to Miami-Dade County and to the suppliers. Revenue models vary depending on the services provided by the e-procurement vendor. Some vendors charge their fees directly to Miami-Dade County while others assess a fee to the suppliers. Most e-procurement vendors are willing to negotiate their revenue model and to use a combination of the following:

### Revenue Models:

- Registration fee – Charged to supplier
- Fee based on number of transactions – Charged to supplier or to Miami-Dade County
- Fee based on dollar amount of transactions – Charged to supplier or to Miami-Dade County
- One time license fee (plus annual maintenance fee) – Charged to Miami-Dade County
- Hourly consulting fee – Charged to Miami-Dade County

Some e-procurement vendors assess their fees to all suppliers who register to do business with Miami-Dade County while others will only assess the fee when a purchase is made from the supplier. One vendor that provides technical support to suppliers and assists them in setting up their electronic catalogs charges the transaction fee only to the small suppliers who require this technical support since the larger suppliers do not require this type of assistance; this vendor also charges a license and maintenance fee to Miami-Dade County.

Miami-Dade County should consider that success of implementation is based on several factors beyond that of the e-procurement solution used. Two major factors are Supplier Acceptance and Acceptance by Professional Procurement Agents and Contracting Officers.

1. The willingness of our suppliers to participate is a major factor in the success of the implementation of any e-procurement solution. Suppliers must believe that costs can be reduced by reducing paper work, expediting order processing, expedited payment processing, tracking of transactions, and exposure to broader markets. The ability to access broader markets is particularly important for small businesses that otherwise would

not be able to compete outside the local marketplace. Many e-procurement vendors provide suppliers the opportunity to display their catalogs on the vendor's commerce network, thereby making a local supplier's product visible to potential customers in other geographic areas.

Supplier enablement is an essential step in building supplier acceptance. In most instances, the only technology the supplier will need is an Internet browser. However, small businesses may need assistance in preparing and updating their electronic catalogs. Some vendors of e-procurement systems provide the software so that suppliers can prepare their own electronic catalogs (some provide this as part of the overall cost, while others charge separately for this service). Large businesses are able to participate in e-procurement and reap its benefits without this technical support.

2. Another important factor in the success of e-procurement implementation is acceptance by our professional procurement agents and contracting officers. The e-procurement solution must be intuitive and require minimum training of Miami-Dade County employees.

An e-procurement solution will allow Miami-Dade County to re-deploy staff from manual paper process to on-line, electronically driven market research, contract analysis, analysis of commodity usages, and production of bids and solicitations, in ways that will be profitable to Miami-Dade County.

## **Background**

This working group was established by Miami-Dade County's Chief Information Officer in August 2000, and supported by the Director of Procurement Management.

### **Vision:**

Miami-Dade County will utilize an electronic and "on-line" environment to operate and manage its procurement activities. Electronic technology helps streamline and expedite the procurement process, and maximizes participation and competition in Miami-Dade County purchases and contracts.

### **Working Group Charter:**

The working group will report to the CIO. The group chairperson shall be designated by the Director, Department of Procurement Management. The group will be comprised of representatives from departments interested in the application of electronic technology to reduce manual, paper-based administrative processes and improve responsiveness to the vendor/contractor community and the citizens of Miami-Dade County. It will evaluate procurement business processes and promote process re-engineering to harness and maximize the benefits of the electronic environment.

### **Goals:**

- a. The group will focus on the procurement management requirements of Miami-Dade County and of each department. It will review available off-the-shelf technology.
- b. It will consider current processes in place and recommend a migration strategy to achieve an electronic procurement environment.
- c. It will recommend a Miami-Dade County-wide solution to the CIO. There may be no single solution to satisfy all requirements, but the group's recommendations must address the standards to be used to make recommended solutions interoperable.

The working group will formulate the objectives needed to achieve these goals, and recommend an aggressive, yet realistic, timeframe for multi-stage implementation of the electronic environment and corresponding procurement business processes.

The working group will write a report and provide a briefing on their findings and recommendations in accordance with Miami-Dade County IT Governance Policy.

### **Structure:**

Originally three committees were created (Policy and Legislation, Business Process, and Technology) to conduct research into current legislation, policy and business process, and to assess the latest technology available in the market place. The committees met once a week to provide a status report to the e-procurement Working Group and to strategize for the coming week. In addition, committee members kept in touch with each other via e-mail, telephone, and meetings to discuss the results of each week's research. As we progressed in our research, we were able to identify

potential legislative impediments to conducting electronic procurement, to study e-procurement efforts by other governmental bodies, to view vendor demonstrations of available e-procurement applications, and to identify beneficial reforms in County procurement business processes that would be radically altered depending on the application Miami-Dade County decides to acquire for e-procurement. Eventually, the Business Process Committee was eliminated since it is our recommendation that Miami-Dade County allow the chosen technology to drive the business process and that we not try to modify the application to fit our current business processes. It would be more cost effective to adapt our business processes to the requirements of the selected application(s) with the understanding that modifications to vendor software can have prohibitive costs and be very time consuming. Many of the current processes would not be needed in an electronic environment.

## **Findings and Recommendations – Policy and Legislation Committee**

### **Purpose:**

Identify policy and legislative changes needed to expand e-procurement applications in Miami-Dade County business. Describe issues requiring resolution.

### **Definitions:**

Procedure: Miami-Dade County business practices and methodologies, either published or SOP. Examples include the Department of Procurement Management guidelines.

Policy: Official Miami-Dade County rules such as Administrative Orders and Miami-Dade County Manager's memoranda.

Legislation: Miami-Dade County Code, ordinances and resolutions passed by the Board of Miami-Dade County Commissioners, Florida State Statutes, and higher law.

### **Introduction:**

The Committee operated according to the strategic orientation of the e-Procurement Working Group. Specifically, we explored opportunities to introduce e-commerce technology and methods to improve current Miami-Dade County practices.

The Committee examined an appreciable amount of printed and electronic literature on innovations in e-procurement, especially those appearing in the public sector. Committee members also generated many suggestions themselves for e-commerce solutions drawing from our varied experiences. After compiling a list, we discussed numerous ideas for subsequent Miami-Dade County applications with the other Working Group committees.

The Committee focused on frustrations with slow-paced events in the current procurement system. We endeavored to engineer simplicity and achieve user friendliness for customers and efficiency for ourselves. The end goal is to better serve the public and facilitate our business relationships.

The process listed recommendations, and investigated each recommendation for possible conflicts with current policies, legislation, and practices. Details of these recommendations appear in Appendix A.

### **Policy and Legislation findings:**

1. Procurement information and processes are increasingly being brought online by federal, state, and local government agencies as the preferred means of doing business.
2. Various departments in Miami-Dade County have published procurement documents and database information online. Such activity is growing.
3. Miami-Dade County can implement in the short term more e-procurement features especially publishing information online, thus

providing convenient 24/7 accesses internally and externally. No legislative impediments exist to such near-term initiatives.

4. A fully interactive e-procurement system may require some legislative effort, such as creating new supportive ordinances and Administrative Orders, to legitimize the use of electronic means of doing business.
5. There is a need to provide incentives for vendors to use Miami-Dade County's e-procurement options as opposed to traditional paper-based methods of doing business. Such incentives include grant funding for small businesses to purchase personal computers and training, reducing/eliminating the vendor application fee for businesses that complete and submit the vendor application electronically, etc.
6. The quick and efficient acquisition of goods through small purchase orders (<\$5,000) is currently hindered by the requirement that vendors present a full set of signed and notarized affidavits prior to award
7. A policy decision is needed as to where in the procurement process vendors should be required to provide affidavits – at time of registration, prior to bidding, when responding to a solicitation/bid, or prior to solicitation/bid award. Furthermore, vendors doing business with Miami-Dade County should not be required to complete the same set of forms numerous times.
8. Vendors express concern backed by their legal resources that Miami-Dade County bids and contracts contain irrelevant clauses and archaic requirements. They claim such terms dissuade them from doing business with Miami-Dade County.
9. Miami-Dade County's current practice is to notify registered Miami-Dade County vendors by mail of ITBs, RFPs and RFQs. Greater vendor participation and cost reductions could occur by e-mailing solicitation/bid notices. New fee schedules are advised to provide incentives for electronic vendor registration.
10. Several sources recommended that the e-procurement application be part of a fully integrated package with other Miami-Dade County financial applications. If creating modifications to Miami-Dade County's present legacy systems (FAMIS and ADPICS) is not cost effective, it may be necessary to acquire a wholly new e-procurement system.
11. Counties, states and federal agencies are increasingly developing shared e-procurement applications, thus tapping a larger vendor pool and negotiating advantageous pricing for goods and services. The State of Florida is currently building an e-procurement system, which will make State procurement resources more widely available to Florida counties and municipalities.

**Recommendations:**

1. Perform vendor registration online (interactive)
2. Post solicitation packages and amendments online
3. List recent contract awards online
4. Advertise public vehicle auctions online
5. List current Miami-Dade County bid contracts online
6. Create an online library of relevant policies and legislation to include: AOs, ordinances, resolutions, and sections of Miami-Dade County Code
7. Publish state/Miami-Dade County vendor debarment and suspension lists online
8. Make available information links to resources for minority or small businesses
9. Submit departmental technical specifications and statements of work to DPM online
10. Publish relevant County procurement policies, legislation, and other reference materials online
11. Publish e-Procurement guidance and instructions online
12. Enable interactive completion and submission of forms and affidavits online
13. Accommodate bidding and proposal submissions online
14. Issue solicitation/bid announcements by e-mail
15. Establish a priority notification system of alerts/banners/flashing updates
16. Make various Miami-Dade County databases accessible to procurement staff
17. Credit card payments for procurement fees
18. Pilot online acquisition of PCs and small purchase orders (<\$5,000)
19. Establish online reference centers adapted for internal and external users. Create a Help Desk. Make a "Virtual VIC"
20. Request that the Clerk's Office accept e-mail copies of prospective Proposers' inquiries to Procurement Officers
21. Expedite IT purchasing
22. Enable County departments to execute small purchase orders online, with purchasing (credit) cards



## **Findings and Recommendations – Technology Committee**

### **Purpose:**

The Technology Committee was charged with the task of evaluating e-procurement technology and tools on the market in order to provide e-procurement solutions for the Department of Procurement Management (DPM).

### **Summary of Current Procurement Process:**

Miami-Dade County has a centralized procurement process with the Department of Procurement Management (DPM). Miami-Dade County purchases a vast array of goods and services to support agencies and offices throughout Miami-Dade County. DPM currently tracks registered vendors, maintain awarded contracts and issue purchase orders through the use of their automated system called The Advance Purchasing and Inventory Controls System (ADPICS), a product of KPMG.

The ADPICS software is written in two programming languages: command level CICS and COBOL. All of the on-line programs are written in command level CICS with COBOL as the host language. The CICS maps are defined using macros and are processed through the IBM assembler. All of the batch programs are written in COBOL. All files used in ADPICS are defined as VSAM files.

DPM employs a competitive bidding process, with awards made to the lowest responsible, responsive bidder, whenever possible. This process is called Invitation to Bid (ITB) or Invitation to Quote (ITQ). Bids/Proposals by vendors are currently physically delivered to DPM, prior to the time and date specified in the solicitation document. Late bids will not be opened, regardless of the degree of lateness or the reason related to the lateness, including causes beyond the control of the bidder.

DPM also utilizes other competitively sealed proposal methods to purchase when factors other than price must be considered in selecting a vendor. These are commonly referred to as the Request for Proposal (RFP) process and the Request for Qualification (RFQ) process.

### **Awarding of Contracts:**

Contracts are awarded based on a combination of factors, which are most advantageous to Miami-Dade County. The method utilized to solicit bids and proposals is determined by the estimated dollar value of the individual purchase or the type of commodity or service needed. The solicitation proposal page, containing the vendor signature, constitutes an offer to Miami-Dade County. Once all bids have been received, the bids are tallied. In order for a vendor to receive the results of the tally, at the time that they submit a proposal to Miami-Dade County, they must enclose a stamped self-addressed envelope.

### **Vendor Registration:**

In order for a vendor to do business with Miami-Dade County and to be awarded a contract, they must first register with DPM. The first step in becoming a vendor is to complete a Business Entity Registration Application. This document contains an affidavit page, which must be signed and notarized. The vendor must also submit a W-9 form, as part of the application process. This form also needs to be signed by the vendor. The vendor then selects the commodities that the company can supply to Miami-Dade County from the Commodity Selection Checklist, has the applicable forms notarized, and mails the application to DPM along with the \$20.00 processing fee.

Upon receipt, the information contained in the application is then manually entered into their ADPICS system.

**Competitive Bids:**

Currently bids are available from various departments and there is no centralized, uniform format.

**Technology Committee Findings:**

e-procurement will be an important option for many departments and agencies that will promote consistency and exchange information between departments and other governmental agencies.

Developments in the field of e-procurement are occurring so rapidly that a continuous (evolutionary) approach of implementation will be necessary. The implementation strategy will encourage innovative approaches on the part of Miami-Dade County in order to build a successful online solutions.

There are many areas of the strategy where a demonstration approach is advisable; generally not to test the technology, but rather to assess the business impact of its introduction. To that end, e-procurement strategies and processes should be identified and prioritized in terms of short, mid and long-term solutions.

A Request for Information (RFI) form was transmitted to a total of 310 vendors on October 10, 2000, with a deadline by October 17, 2000. The 37 responses (Appendix H) that were received were evaluated based upon:

**Functionality:** description the functionality of vendor's product or products

**Technical Architecture:** overall design of your product as well as how components integrate and interact with other applications and each other

**Particular Expertise:** company's software applications and/or consulting expertise

**Background Information:** Number of years providing e-procurement solution(s); primary client type(s); operating system requirements

**Additional Information:** Technical support provided, trial evaluation software, number of governmental agencies as clients.

**Recommendations:**

1. The e-procurement system should provide data security by incorporating Secure Socket Layer (SSL) technology, encryption, and user authentication.
2. The application system should offer a high degree of availability (24x7 service availability) and performance to support the level of service availability required by Miami-Dade County.
3. The e-procurement system must do the following: (1) be accessible from the Internet (2) Present data via the Web (3) Interface with Internet-based e-mail (4) Support XML and electronic data interchange (5) Retrieve addresses from a directory (6) Support Secure Socket Layer or Secure Electronic Transactions.

4. The e-procurement solution should have an open system architecture. This allows integration with other applications and provides the flexibility to adapt to future changes in technology.
5. The system solution should provide the following: portability, interoperability, a quality graphical user interface, and scalability.
6. e-procurement systems must be strong in the areas of interoperability and integration. It must have the interfaces needed to link to internal applications such as ADPICS and other legacy systems. SAP (Systems, Application and Products), a leader in enterprise-software, and Internet software simplifies the programming communication processes between systems, and manages the communication process. The e-procurement application will need to support SAP's Remote Function Calls and Business Application Programming Interfaces.
7. Total cost of ownership, comprised of. The cost of purchasing the software and integrating it into Miami-Dade County's technical infrastructure and monitoring it, along with post-acquisition costs that are associated with the deployment of the system, all add up to the total cost. The total cost of acquiring the e-procurement system should be justified within a period of two years to be considered successful and beneficial to Miami-Dade County.
8. The vendor implementing the e-procurement system must display considerable consulting expertise, the ability to resolve problems, provide a high level of customer satisfaction and most importantly the ability to transfer knowledge. These four factors are critical to the success of the system implementation.
9. The financial health of the vendor should be evaluated. Understanding the financial health of a vendor will help them determine whether a vendor will become a leader or a potential risk. A vendor that fails or is bought out could have far-reaching consequence for Miami-Dade County resulting in substantially increased maintenance costs the possibility of repeating the entire e-procurement decision. Thus, Miami-Dade County should consider vendors' viability in finances, organization and the market.
10. Miami-Dade County should seek to have an integrated e-procurement system approach, instead of multiple independent contracts for the various portions of the e-procurement solution. Public sector purchasing has requirements and process that are quite different from those of Miami-Dade County.

## Appendices

- Appendix A - Policy & Legislation Committee Detailed Recommendations
- Appendix B - Legislation Relating to Miami-Dade County Procurement
- Appendix C - Administrative Orders 3-2
  - Florida State Statutes
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- Appendix D - List of *e-procurement* Web Pages
- Appendix E - Criteria for selecting *e-procurement* Vendors
- Appendix F - Request for Information (RFI) # 7
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## Appendix A - Policy & Legislation Committee Detailed Recommendations

### Miami-Dade County, Florida CIO's e-Procurement Working Group

#### Recommendation No.: 1

**Title:** Make forms and the instructions for their completion available for viewing and downloading

**Description:** Identified applications include the vendor application and affidavits

**Benefits:** User friendly  
Available 24x7  
Reduces Miami-Dade County printing costs  
No cost to businesses and the public

**Document(s)/  
Site(s) affected:** Miami-Dade County web portal

**Issues:** Need to establish who has the authority to approve documents and revisions

**Policy action:** None

**Legislative action:** None

**Timing:** Done or near-term

**APPENDIX A**  
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**Recommendation No.: 2**

**Title:** Publish solicitations on-line

**Description:** Solicitations include ITBs, ITQs, RFPs, RFQs, RFIs and A&E  
In each solicitation, a scope of service will be made available for immediate viewing. The detailed scope of service will prevent vendors from obtaining a bid package for which they cannot supply the required services or commodities

**Benefits:** No cost to public and businesses  
Available 24x7

**Document(s)/**

**Site(s) affected:** Miami-Dade County web portal

**Issues:** Ensure information is updated by amendments  
Make a single site for all Miami-Dade County business  
Investigate the legality of replacing (if desired) current advertisement methods (placing ads in popular newspapers) with publishing solicitations/bids through Miami-Dade County web portal

**Policy action:** Modify AOs 3-2, 3-16 and others as necessary

**Legislative action:** Gain approval of BCC for revised AO s

**Timing:** Near-term

**APPENDIX A**  
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**Recommendation No.: 3**

<b>Title:</b>	Publish solicitation and bid awards on-line
<b>Description:</b>	Applies to bid openings as well as bid tallies. Awards published online should include protest information, such as where and how the protest should be filed (i.e. with the Clerk of Courts), and the 10 (ten) day period to protest the posted or written notification of award
<b>Benefits:</b>	User-friendly Available 24x7
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	Authority to post and coordination requirements
<b>Policy action:</b>	AO revision
<b>Legislative action:</b>	BCC approval of revised AOs
<b>Timing:</b>	Near-term

**APPENDIX A**  
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**Recommendation No.: 4**

<b>Title:</b>	Advertise surplus vehicle auctions on-line
<b>Description:</b>	This feature involves posting notices of the time and place of upcoming GSA vehicle auctions. Will also include Miami-Dade County auction rules and a list of vehicles in the auction
<b>Benefits:</b>	Makes information widely available to the public and promotes business transactions with Miami-Dade County. Also provides the potential for increased general fund revenue and increased revenue for the vehicle replacement policy program
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	Insure congruence with Florida Statutes Chapter 274; rules of the Auditor General; Section 2-11.2.1 of Miami-Dade County Code as amended by Ordinance 98-6; and AO 8-2
<b>Policy action:</b>	None
<b>Legislative action:</b>	None
<b>Timing:</b>	Near term



**APPENDIX A**  
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**Recommendation No.: 5**

**Title:** Publish a list of current Miami-Dade County contracts online including standard details

**Description:** Same. This option should include information on current contract status

**Benefits:** Accessible to internal and external interested parties  
24x7

**Document(s)/  
Site(s) affected:** Miami-Dade County web portal

**Issues:** Put the VIC in charge

**Policy action:** Require all departments and agencies to supply pertinent information and maintain it

**Legislative action:** None

**Timing:** Done or near-term

**APPENDIX A**  
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**Recommendation No.: 6**

**Title:** Create an on-line library of relevant policies and legislation to include: AOs, ordinances, resolutions, sections of Miami-Dade County Code, Florida statutes, and federal law

**Description:** Make policies and legislation available for on-screen viewing and downloading

**Benefits:** User-friendly  
Accessible 24x7

**Document(s)/**  
**Site(s) affected:** Miami-Dade County web portal

**Issues:** Some documents are currently available on Intranet  
Indexing and search capabilities  
Add hyperlink capability

**Policy action:** Maintenance responsibility

**Legislative action:** None

**Timing:** Done or near-term

**APPENDIX A**  
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**Recommendation No.: 7**

<b>Title:</b>	Publish online state/Miami-Dade County vendor debarment and suspension lists
<b>Description:</b>	This feature involves listing vendors who are not in compliance with their Miami-Dade County or state contracts, or have been debarred or found in violation. Alternatively, a link can be provided to the Florida state website <a href="http://www.myflorida.com">www.myflorida.com</a> , where such information for state contractors is already available
<b>Benefits:</b>	Miami-Dade County procurement staff can consult the debarment and suspension lists, and take measures to preclude awarding new Miami-Dade County contracts to non-responsible vendors
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	Enter disclaimers
<b>Policy action:</b>	All Miami-Dade County departments must provide information on vendors that have failed to comply with the terms and conditions of their contract
<b>Legislative action:</b>	None required. The State of Florida has a statute governing this disclosure requirement: Section 287.133(3)(d), Florida Statutes, provides that the Department of Management Services shall maintain a list of the names and addresses of those who have been disqualified from participating in the public contracting process under this section
<b>Timing:</b>	Near-term

**APPENDIX A**  
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**Recommendation No.: 8**

**Title:** Make available information and links to resources for minority or small businesses

**Description:** This feature involves listing upcoming events for minority or small businesses (such as seminars and workshops), providing links to minority business association webpages, etc. Include currently advertised projects with participation measures

**Benefits:** Resources for small and/or minority businesses are publicized and presented in a single location, and thus made more accessible to the public  
Encourage greater participation by small firms

**Document(s)/**

**Site(s) affected:** Miami-Dade County web portal

**Issues:** Consider ways to assist small businesses to equip for E-Commerce; e.g., DBD or Empowerment Trust grants

**Policy action:** None

**Legislative action:** None

**Timing:** Near-term

**APPENDIX A**  
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**Recommendation No.: 9**

**Title:** Submit departmental technical specifications and statements of work to DPM electronically

**Description:** Current procedure is to receive diskettes and/or hard copy, as opposed to e-mail

**Benefits:** Speed  
Easy to circulate

**Document(s)/  
Site(s) affected:** N/A

**Issues:** None

**Policy action:** None

**Legislative action:** None

**Timing:** Near-term

**APPENDIX A**  
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**Recommendation No.: 10**

**Title:** Publish on-line standard shells for solicitations/ITBs and contracts, also a standard-clause dictionary, and definitions

**Description:** This feature involves a clarification of commonly used procurement terminology, and the publishing of contract and solicitation templates on the webpage. Also involves timely posting of any revisions, additions, deletions to existing legislation immediately upon adoption by the Board of Miami-Dade County Commissioners and or the State Legislature or Congress

**Benefits:** Assures internal consistency, currency, error reduction and makes contract language and formats accessible to the vendors

**Document(s)/**

**Site(s) affected:** Miami-Dade County web portal

**Issues:** N/A

**Policy action:** None required

**Legislative action:** None required

**Timing:** Near-term

**APPENDIX A**  
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**Recommendation No.: 11**

<b>Title:</b>	Publish available procurement training info
<b>Description:</b>	This feature involves announcing possible future training sessions on the new e-procurement application (depending on its features and complexity), and various other procurement issues, targeting both Miami-Dade County employees or vendors. Such training sessions can also be established on-line
<b>Benefits:</b>	Identifies training opportunities Facilitates access and use of e-procurement applications and resources
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	N/A
<b>Policy action:</b>	None required
<b>Legislative action:</b>	None required
<b>Timing:</b>	Near-term

**APPENDIX A**  
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**Recommendation No.: 12**

**Title:** Enable interactive completion and submission of forms and affidavits on-line

**Description:** Same

**Benefits:** Speed  
Form field has scroll-down menus with valid options, thus ensuring correct information is filled in

**Document(s)/**

**Site(s) affected:** Miami-Dade County web portal

**Issues:** Signature authenticity  
Notarization authenticity

**Policy action:** Revise AO 3-2 to accept on-line submissions

**Legislative action:** Gain approval for revised AO

**Timing:** Mid-term



**APPENDIX A**  
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**Recommendation No.: 13**

<b>Title:</b>	Accommodate on-line bidding and proposal submissions
<b>Description:</b>	Establish interactive reverse online auctions and make bid tabulations available for real-time online viewing
<b>Benefits:</b>	Speed May attract a larger bidder pool
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	Signature authenticity Notarization authenticity Need to maintain parallel manual procedures for vendors without Internet access
<b>Policy action:</b>	AO revision
<b>Legislative action:</b>	Gain BCC approval of revised AOs
<b>Timing:</b>	Long-term

**APPENDIX A**  
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**Recommendation No.: 14**

<b>Title:</b>	Issue solicitation/bid announcements by e-mail
<b>Description:</b>	Businesses receive e-mail notification of procurement opportunities for the commodity codes they have registered for
<b>Benefits:</b>	Speed Fiscal economy Labor reduction May be made able to eliminate duplicate mailings
<b>Document(s)/ Site(s) affected:</b>	Applications and forms
<b>Issues:</b>	Obtaining e-mail addresses at time of vendor registration
<b>Policy action:</b>	None
<b>Legislative action:</b>	None
<b>Timing:</b>	Mid-term

**APPENDIX A**  
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**Recommendation No.: 15**

<b>Title:</b>	Establish a priority notification system of alerts/banners/flashing updates
<b>Description:</b>	This feature involves publishing legislation and/or policy changes in a highly visible mode, whereby users of the procurement webpage are drawn to immediately notice important updates on Miami-Dade County procurement process
<b>Benefits:</b>	Promotes ease of use of the procurement webpage through prioritized organization and presentation of its content
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	N/A
<b>Policy action:</b>	None required
<b>Legislative action:</b>	None required
<b>Timing:</b>	Near-to-Mid term

**APPENDIX A**  
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**Recommendation No.: 16**

<b>Title:</b>	Make various databases accessible to procurement staffs
<b>Description:</b>	Include databases for: DPM's registered vendors, DBD certified, A&E technical, debarred and suspended firms, Team Metro enforcement actions, vendors-in-arrears. Others include occupational licenses and Legistar information. State of Florida Secretary of State (for corporate information), and State of Florida Department of Business & Professional Regulation (for licensing information)
<b>Benefits:</b>	Aid to compliance verification and monitoring Expands staff awareness and empowerment Works toward ensuring checks and balances in procurement system
<b>Document(s)/ Site(s) affected:</b>	Databases Networks
<b>Issues:</b>	Training Links to other databases
<b>Policy action:</b>	None
<b>Legislative action:</b>	None
<b>Timing:</b>	Mid-term

**APPENDIX A**  
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**Recommendation No.: 17**

<b>Title:</b>	Credit card payments for procurement fees
<b>Description:</b>	This feature involves the availability of online payment options
<b>Benefits:</b>	Assures convenience for the external users Security Reduction of cash payments
<b>Document(s)/ Site(s) affected:</b>	Miami-Dade County web portal
<b>Issues:</b>	The E-government working group and the Finance Department are already working on issues related to online payments
<b>Policy action:</b>	None required
<b>Legislative action:</b>	None required
<b>Timing:</b>	Near-term

**APPENDIX A**  
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**Recommendation No.: 18**

**Title:** Pilot on-line acquisition of PCs and items from small purchase orders (<\$5,000)

**Description:** This feature allows departments to purchase online from approved Miami-Dade County contractors. A pilot with Personal Computer-related purchases is hereby proposed

**Benefits:** Speeds up internal processes

**Document(s)/**

**Site(s) affected:** DPM Manual and Miami-Dade County web portal

**Issues:** Inter- and Intra-departmental coordination steps must be established. AO 3-2 must be amended to accommodate direct online purchasing  
Sealing of quotes

**Policy action:** None required

**Legislative action:** Administrative Order 3-2 Effective: 1/16/96

**Timing:** Mid-to-long term

**APPENDIX A**  
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**Recommendation No.: 19**

**Title:** Establish on-line reference centers tailored for internal and external users.  
Create a Help Desk. Make a "Virtual VIC."

**Description:** Provide departmental instructions, staff responsibilities and contact information, and checklists. Publish frequently asked questions (FAQs) with answers. Sets up a communication link for obtaining assistance. Create an evaluation means to learn about effectiveness and obtain suggestions for improved service

**Benefits:** Provides useful information and guidance  
24x7

**Document(s)/**

**Site(s) affected:** Miami-Dade County web portal

**Issues:** Routing of questions  
Authority for approving responses  
Disclaimers

**Policy action:** Designate responsibility and authority

**Legislative action:** None

**Timing:** Near-to-mid term

**APPENDIX A**  
**Policy & Legislation Committee Detailed Recommendations**

**Recommendation No.: 20**

**Title:** Request that the Clerk's Office accept e-mail copies of prospective Proposers' inquiries to Procurement Officers, including those that fall under the Cone of Silence

**Description:** This feature involves providing an electronic copy of all e-mail communication between procurement staff, proposers, or respondents to RFQs, RFPs and Miami-Dade County bids, thus satisfying the requirements of the Cone of Silence

**Benefits:** User friendly  
Speeds up internal processes  
Consistency

**Document(s)/**

**Site(s) affected:** Instructions to solicitation/bidding

**Issues:** AO 3-27 must be amended to include "filing an electronic copy of any correspondence" with proposers and respondents to solicitations/bids, to the Clerk of the Board

Clerk's Office process reconfiguration

**Policy action:** None required

**Legislative action:** Administrative Order No.: 3-27 Ordered: 1/21/99 Effective: 1/31/99

**Timing:** Near-to-mid term



**APPENDIX A**  
**Policy & Legislation Committee Detailed Recommendations**

**Recommendation No.: 21**

<b>Title:</b>	Expedite IT purchasing
<b>Description:</b>	This feature involves implementing special procedures for purchasing IT products and services in shorter terms
<b>Benefits:</b>	Accelerated acquisition of state-of-the-art technology Enhancement of Miami-Dade County's overall technological infrastructure
<b>Document(s)/ Site(s) affected:</b>	
<b>Issues:</b>	Re-engineer existing procurement procedures, e.g., by cutting processing time
<b>Policy action:</b>	Amend DPM Manual
<b>Legislative action:</b>	Amend Administrative Order No.: 3-2 to allow for exclusive, i.e. expedited handling of IT purchases
<b>Timing:</b>	Mid-term

**APPENDIX A**  
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**Recommendation No.: 22**

<b>Title:</b>	Implement an e-procurement purchasing card for small purchase orders
<b>Description:</b>	This feature involves establishing an agreement with Visa, MasterCard, or another major credit card provider to create a Miami-Dade County procurement card for small dollar purchases of goods and services
<b>Benefits:</b>	Speeds up internal processes Efficiency
<b>Document(s)/ Site(s) affected:</b>	
<b>Issues:</b>	Establishing rules of usage, e.g., determining authorized users, transactional limits, purchase approval processes, etc.
<b>Policy action:</b>	Devise new policies
<b>Legislative action:</b>	Obtain legislative approval. Amend related AO's (3-2)
<b>Timing:</b>	Mid-term

## **Appendix B - Legislation Relating to Miami-Dade County Procurement**

### **Legislation Relating to Miami-Dade County Procurement**

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# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
<b>RESPONSIBLE WAGES AND BENEFITS -</b>							
90-90					11-Sep-90	Requires contractors performing County contracts for the construction, alteration, and/or repair, including painting and decorating of public buildings or public works to furnish hospitalization, medical, pension and life insurance benefits to employees and pay responsible wages.	
90-143			Section 2-11.16		18-Dec-90 Effective 9-Jan-91	On contracts > \$100,000, a contractor must pay laborers and mechanics performing work on County construction projects responsible wages and benefits. DBD is responsible for preparing, updating, and disseminating wage information to be used by the various departments in preparing applicable bid specification packages.	
95-183	R-1006-97		Section 2-11.16(b)		17-Oct-95 Effective <b>27-Oct-95</b>	Amends Code so that where not otherwise precluded by state or federal law, the overall per hour rate shall be the higher rate under Section 2-11.16 or the rate of wages to be paid under requirements of Davis-Bacon Act; provided further that the overall per hour rate shall not be the higher rate if the federal government requires the county as a condition of receiving federal funds for a project to pay no more than the wages as determined by the U. S. Dept. of Labor under the Davis-Bacon Act on project contracts.	
		A.O. 3-24			9-Sep-97 Eff: 10 days	Approved Administrative Order which implements Responsible Wages and Benefits Ordinance for competitively bid County constructions contracts.	
					9-Sep-97 Effective immediately	Implements the responsible bidder ordinance and establishes an administrative procedure for resolution of complaints regarding underpayment of required hourly wages. DBD is responsible for implementing this A.O. [Exception: Does not apply to construction contracts < or = to \$100,000, or blanket contracts provided overall blanket ceiling is not > \$500,000; no individual Work Order issued under blanket contract shall be > \$25,000 per craft, nor does it apply to federally-funded contracts or those subject to Davis-Bacon Act (40 U.S.C. 276(a)).	
<b>LIVING WAGE ORDINANCE</b>							
99-44		A.O. 3-30	Section 2-8.9		25-Jul-00 Effective 4-Aug-00	Establishes administrative procedure for filing, processing, and resolution of complaints regarding underpayment of required hourly wages and if applicable health benefits and remedies for non-compliance.  DPM responsible for contract language. DBE responsible for implementation and enforcement.	
90-133			Amended Section 2-8.1		12/4/90 Eff: 10 days	Requires all contracts, business transactions or renewals to require disclosure, under oath, of full legal name and business address of person contracting or transacting such business and of all individuals having any interest in the contract. If a corporation, applies to each officer, director, and stockholder, trustee, and beneficiary of the trust holding, directly or indirectly, 5% or more of outstanding stock in corporation. <b>Exception:</b> No disclosure shall be required of	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						suppliers, laborers, or lenders, nor to contracts with publicly-traded corporations, the U.S. or any agency or department thereof, the state or any political subdivision thereof, or any municipality of this state.	
<b>FAMILY LEAVE ORDINANCE -</b>							
91-42			Ch. 11A		17-Dec-91 Eff: 90 days	To promote the economic security of families by guaranteeing jobs to wage earners who choose to take a period of leave upon the birth or placement for adoption of a child, or serious health condition of a family member; to balance the demands of the workplace with the needs of families, to promote stability and economic stability and economic security in families and to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, spouse, or other close relative who has a serious health condition, including grandparents--without risk of termination or retaliation.	
93-118			Section 11A-51 and 11A-52 of Article 6 of Chapter 11A		3-Nov-93	Made County ordinance consistent with Family and Medical Leave Act of 1993, a Federal Law, so as to avoid imposing possibly conflicting burdens on employers and unduly confusing employees about their family leave rights.  Commission intent: To provide employees with an efficient alternative means of enforcing their rights to family and medical leave through Equal Opportunity Board.	
<b>DISASTER REPAIR</b>							
92-91			Section 10-3C		10-Sep-92	Amended existing authority in code to register contractors not holding county or state certification to perform disaster repair work; requiring applicants for such registration to pass an examination on So. Fla. Building Code.	
<b>DRUG-FREE WORKPLACE -</b>							
92-15			Section 1-8.1.1.1		17-Mar-92 Eff: 30 days	Requires all persons and entities that contract with Miami-Dade County or receive grants of County monies to certify that they will maintain a drug-free workplace.	
93-113			Section 2-8.1.2		19-Dec-93 Effective 29-Dec-93	Revision of Code to eliminate the requirement on multi-year contracts for annual certification and to allow waiver of certification requirements in certain instances.	
<b>CONTRACTOR DEBARMENT -</b>							
93-129			Section 10-38		16-Nov-93 Eff: 10 days 26-Nov-93	To assure that the County awards contracts to responsible contractors only; imposed only when in the public interest and not for purposes of punishment. Establishes list of debarred contractors; describes effect of debarment on existing contractors; restricts contractor's ability to subcontract County work to a contractor included on list; establishes procedures for debarment and Debarment Committee; provides for notice of Committee's decision and appeal therefrom.	
93-137			Adds new		14-Dec-93	To provide contractual penalties and debarment	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
			Section 2-8.4		Eff: 10 days 24-Dec-93	for any contractor attempting to meet contractual obligations with the County through fraud, misrepresentation, or material misstatement.	
94-97			Amends Section 2-8.2		17-May-94 Effective 27-May-94	Provides sanctions for failure to comply and fulfill the BBE goal if included in contract language. Additional sanction: Contractor's eligibility to receive any future county contracts shall be conditioned upon making up deficit.	
BID PROTEST PROCEDURES -							
93-135					14-Dec-93 Eff: 10 days	Mandates rules of procedure to be followed to ensure that contracts awarded based on competitive bids serve best interests of the County. Also provided that BOCC is bound by County Attorney's determination regarding responsiveness.	Superseded by 94-72
94-26			Added 2 new sections: Section 2-8.3 & 2-8.4		1-Feb-94 Eff: 10 days	Created bid protest procedures governing protests arising out of any competitive process utilized to select County contractors. Requires immediate notice all participants of Manager's recommendation. Sets up Hearing Examiner process.	Supersedes all existing ordinances, resolutions, or policy in conflict therewith.
94-72			Amended Section 2-8.3(1)		5-May-94 Eff: 10 days 15-May-94	Amended Ordinance 94-26 to require a 2/3 vote of the members present to waive requirements of this section. Exception: Selections governed under Florida Statute 287.055.	Amended 94-26 Supersedes 93-135
		A.O. 3-21			18-Jul-96	Establishes the form and requirements for posting of a bond as a condition of initiating a bid protest by a participant in any competitive process utilized for selection of a person or other entity to construct any public improvement, to provide any supplies, materials or services (including professional or management services other than professional services whose acquisition is governed by F.S. 287.055, or to lease County property. Also establishes procedures governing protests of such contracts and purchases which involve the expenditure of \$500,000 or less, and those valued at no less than \$25,000.	
95-126			Section 2-8.4		11-Jul-95	Requires posting of \$500 bond as a condition of initiating a bid protest and eliminating the cap on the amount of costs which the Hearing Examiner can assess against the losing party.	
95-201		A.O. 3-2 as amended	Amends Section 2-8.1, 2-8.3, 2-8.4			Delegate Manager to advertise for bid, award and reject bids for contracts and purchases < \$500,000. Exempts contracts < \$500,000 from Sec. 2-8.3 (written Manager's recommendation) and from 2-8.4 (bid protest). Increases threshold for formal sealed bids for contracts from \$10,000 to \$100,000.	
99-146			Section 2-8.4		19-Oct-99 Effective 29-Oct-99	Precludes Bid Protests seeking to alter or change the relative weight of evaluation criteria or the formula specified for assigning points therefor contained in bid, RFP and RFQ specifications which have been approved	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						by BOCC.  Added language: "A protest hereunder may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points therefor contained in bid, RFP, or RFQ specifications which have been approved by the Commission."	
<b>CONVICTED FELON</b>							
94-34			Created new section ????		3-Mar-94 Eff: 10 days 13-Mar-94	Requires individuals or entities who have been convicted of a felony during the past 10 years to disclose such conviction when seeking County contracts or funding.	
<b>PROMPT PAYMENT -</b>							
92-45					2-Jun-92		Repealed by 94-40
94-40		A.O. 3-19 Effective 6-Oct-94	Section 2-8.2		17-Mar-94 Eff: 10 days 27-Mar-94	Codified Florida Prompt Payment Act to provide expedited payments to small businesses and creating dispute resolution procedures. Also provides for interest payments on late payments made by the County and the PHT.	
		A.O. 3-3  A.O. 3-19	Section 4.02		11-Jul-95  6-Oct-94	Governs the purchases, funded in whole or in part by County funds, by all County departments and agencies of goods and services, and construction.  Does not apply to purchases < \$25,000, lease or rental of real property, licenses and permits, concessions, franchise agreements, bond counsel, attorney and/or legal services, and investment banking.  Establishes the policy that payment for all purchases by all County departments and agencies, including PHT, be made in a timely manner; provides for expedited payment to BBE, HBE, WBE and DBEs; provides for interest payments on late payments made by County and PHT; creates dispute resolution process for payment of County and PHT obligations.	Supersedes 83-67, 84-65, and 92-45. Also prior A.O. 3-3.
<b>LOCAL PREFERENCE ORDINANCE -</b>							
92-22					4/7/92 Eff: 10 days	Provides 1% preference to bidders or proposers for County contracts who have their headquarters or who will produce the goods or provide the services purchased under the contract in the County.  Exception: Those professional services procured pursuant to F.S. 287.055.	Expired on 4/7/94
94-166			Amends Section 2-8.5		13-Sep-94 Eff: 10 days 23-Sep-94	Enacted because 92-22 expired on 4/7/94 and County unemployment rate for past 2 yrs has remained higher than that of State of Fla. And nation; thus need to continue program.  Differs from 92-22 in that it limits the preference	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						to 1.5% of the bid price. County Manager shall establish a sliding scale which provides the extent of preference given to a local business in proportion to the percentage of its employees that are Dade County residents.	
94-196	94-196		Amends Section 2-8.5 as recreated by 94-166			Provides a .5% of the bid price additional preference for local businesses in County contracting for firms having certain contracts with distressed communities (a census tract in which 25% or more of the residents have incomes below the poverty level as shown by the latest census); or have their headquarters in a distressed community; or subcontract a significant portion of their business to companies located in distressed communities; or 25% of whose work force reside in distressed communities.	
96-26			Amends Section 2-8.5		16-Jan-96 Effective 26-Jan-96	This ordinance amended the Code with regard to reciprocity and was enacted to provide for a more efficient procurement process. Permits Dade County to enter into Interlocal Agreement with Broward and/or Palm Beach Counties wherein preferences may be extended and made available to vendors that have their headquarters or have a place of business in such other County at which they will produce the goods or perform the services to be purchased. In no event shall the amount of the preference accorded Broward/Palm Beach firms exceed the amount of preference that such County extends to Dade County firms competing for its contracts. Such Interlocal Agreement shall provide for Dade County to extend the same percentage or evaluation point preference to Broward/Palm Beach firms as those counties extend to Dade County firms.	
	50-96				16-Jan-96	Approved Interlocal Agreement with Broward County effectuating the reciprocity of local preference for vendors located in either county competing for Dade or Broward County contracts.	
WELFARE REFORM - PROJECT FRESH START							
	R-366-97				8-Apr-97 Eff: 10 days	Requires in contracts involving the expenditure of > \$500,000 for the purchase of goods, services, or construction, that vendors with 25 or more employees to have a minimum of 5% of their workforce be persons residing in the County who have lost or will lose benefits as a result of 1996 Welfare Reform Act.	
	R-1206-97				7-Oct-97 Eff: 10 days	Requires that prior to entering into or renewing any ANY contract with the County, an entity shall submit an Affidavit attesting that during the term of the contract, 5% of its local full-time work force consists of will consist of individuals who reside in the County and who have lost or will lost AFDC as a result of the 1996 Welfare Reform Act. Entity must further attest that any employees hired pursuant to this Resolution did not replace any existing personnel. If entity cannot meet these terms, then entity must	



# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						contribute to an employee training program that trains County residents who have lost or are about to lose benefits 50% of the wages that would be paid to 5% of the entity's full-time work force based on full-time minimum wage position for entire term of contract.	
	R-358-99				13-Apr-99 Effective 04/23/1999 ???		
POLICY OF FAIR SUBCONTRACTING PRACTICES -							
82-67			Article 11 of Chapter 10 Adds new section 10-38 Amends 10-34		20-Jul-82	Requires review of proposed County construction contracts to determine whether addition to bid specifications of race-conscious measures, including bid credits, goals and set-asides will foster participation of black contractors and subcontractors in contract work.  Provides exception from prohibition against listing of subcontractors in bids.	
	R-760-84					Declares that BOCC, as its policy, all accounting firms employed by County have one or more Black Americans as partners or managers working directly on County contract or establish a goal to subcontract a specified portion of the contract.	
92-45		A.O. ??					
93-106					19-Oct-93 Effective 29-Oct-93	Provides for penalty for a contractor to attempt to comply through fraud, misrepresentation or material misstatement; prohibits certification of such contractors; requires that contracts be terminated and prohibiting future award of contracts for period not to exceed 5 years.	
82-37			Section 2-10.4		4-May-82	Amended the Code governing acquisition of professional architectural, engineering, architectural landscaping or land surveying services to require submission of an Affirmative Action Plan and requiring the Manager to consider such plan as one of evaluation criteria.	
96-160			Section 10-34		12-Nov-96 Eff: 30 days	Repealed Section 10-34 of Code to eliminate the proscription against requiring the listing of subcontractors in bids for county construction contracts.	Repealed Section 10-34 of Code
97-35			Amended Art.1 of Ch. 2		6-May-97 Eff: 60 days	In order to promote diversity in the use of subs on County projects and to allow opportunities for subbing to as many qualified subs as possible, this ordinance declared standards for awarding subs on County County contracts and required reporting of subcontracting policies and procedures. 1. Applies to procurement of goods and services not included in 2,3, and 4 below. 2. Construction of a public improvement. 3. Professional services subject to F.S. 287.055 and Section 2-10.4 of the Code. 4. Other professional services, including but not limited to accounting, legal, health care, consulting and management services. 5. Contract does not mean an agreement to purchase, lease, or rent real property; grant licenses, permits, or franchises; operate	To stand repealed 5 years from its effective date.

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						<p>concessions; or make grants.</p> <p>Bidders are encouraged to adopt policies and procedures which:</p> <ul style="list-style-type: none"> <li>a) Notify the broadest number of local subs</li> <li>b) Invite local sub to submit bids in a practical, expedient way</li> <li>c) Provide local subs access to information necessary to prepare and formulate a bid</li> <li>d) Allow local subs to meet with appropriate personnel of bidder to discuss requirements.</li> <li>e) Award subcontracts based on full and complete consideration of all submitted proposals and in accordance with bidder's stated objectives</li> </ul> <p>REQUIRES ON ALL CONTRACTS WHERE BIDDER MAY USE A SUB TO GIVE A DETAILED STATEMENT OF ITS POLICIES &amp; PROCEDURES FOR AWARDING SUBS.</p> <p>Bids without said statement "shall be considered non-responsive."</p>	
97-104			Amends Art. 1 if Ch. 10		<p>8-Jul-97 Eff: 10 days 18-Jul-97</p>	<p>Applies to ALL contracts for public improvements and purchase of ALL supplies, materials and services other than professional services.</p> <p>EXCEPTION: &lt; \$100,000</p> <p>Requires entity to list ALL first tier subs who will perform any part of the contract work and ALL suppliers who will supply materials for the contract work direct to such entity.</p> <p>In competitive bidding, specs shall require such listing be included in bid. Failure to include such listing shall render bid non-responsive.</p> <p>Section 10-34 of Code governs sub listing requirements for contracts for public improvements.</p> <p>Manager shall include language in all contracts to which this applies to provide that contractor shall not change or substitute subs or suppliers from those listed except upon written approval of the County.</p>	
98-30					<p>19-Feb-98 Effective 1-Mar-98</p>	<p>Requires firms with annual gross revenues in excess of \$5 million to file their Affirmative Action Plans and Procurement Policies with the County prior to any contract award.</p> <p>Exemption: Firms whose Boards of Directors are representative of the population make-up of the nation.</p>	
98-31			Section 2-8.1, 2-8.8, and 10-34		<p>19-Feb-98 Effective 03/01/1998????</p>	<p>&gt; \$5,000,000 contracting with County demonstrate that their employment and procurement practices do not discriminate against minorities and women.</p> <p>Provides rebuttable presumption that corporations whose Boards are representative of the make-up of the population of the nation have non-discriminatory employment and procurement policies.</p>	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						Said entities shall have, as a condition of receiving a County contract, the following: 1) Written affirmative action plan which sets forth procedures entity utilizes to assure that it does not discriminate in its employment/promotion practices 2) Written procurement policy which sets forth the procedures utilized to assure it does not discriminate against minority and women-owned businesses in its own procurement of goods, supplies & services.	
98-31 Amends 97-35 and 97-104			Amends Sections 2-8.1, 2-8.8, and 10-34		19-Feb-98 Eff: 10 days	Applies to ALL County contracts for purchase of supplies, materials or services, including professional services, which involve the expenditure of \$100,000 or more. [Same as 97-104] EXCEPTION: Those contracts advertised for bid after July 18, 1997 on which bids were opened before January 31, 1998 whose specifications do not include language implementing this subsection may be awarded, SUBJECT TO awardee supplying the required listing of subs and suppliers and agreeing to include language, to-wit: "Contractor shall not change or substitute subs or suppliers from those listed except upon written approval of the County." Applies also to reporting of subcontracting procedures and policies.	
		A.O. 3-3	Section 4.02, 4.03 & 2.8		11-Jul-95 Effective 11-Jul-95		Supersedes A.O. 3-3 and regu- lations and depart- mental rules promul- gated under 82-67, 84-65, and 92-45
ADA (AMERICANS WITH DISABILITIES) COMPLIANCE -							
	R-385-95				5-Apr-95 Eff: Immediately	Strengthens enforcement of provisions of ADA by creating new policy prohibiting contracts with firms violating ADA and other laws prohibiting discrimination on basis of disability. Requires any firm desiring to do business with the County, prior to entering into any contract, to submit affidavit attesting that firm is not in violation of any provisions of the ADA. All County contracts for goods and services must contain specific language as to "violation" should a post contract violation of any of the ADA occur.	
DISCRIMINATION IN CONTRACTING, PROCUREMENT, BONDING & FINANCIAL SERVICES							
97-67			Creates new Article VII in Chapter 11A			Created Community Small Business Enterprise Program	
97-158							

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
<b>VALUE ANALYSIS - LIFE CYCLE COSTING - PROFESSIONAL SERVICE AGREEMENTS</b>							
97-73			Amended Section 2-10.4		5-May-94 Effective 15-May-94	Defined Value Analysis and Life-Cycle Costing, and required that each contract for professional architectural or land surveying services include value analysis services in order to ensure that all products and materials utilized in county contracts are the most cost-effective and durable for the purposes intended.	
97-172		A.O. ???	Amends Section 2-10.4		7-Oct-97 Effective 17-Oct-97	Requires design services for certain County facilities and improvements to include value analysis.  Increases requirement for value analysis to PSAs that exceed \$50,000 rather than \$100,000.	
<b>CHANGE ORDERS -</b>							
	R-754-97				17-Jun-97 Eff: 10 days	Directs Manager to provide following information when BOCC is considering a Change Order request: 1) County's original cost estimate and all original bids submitted 2) Value and number of prior Change Orders requested by contractor and approved by BOCC relating to previously awarded contracts Also directs Manager to develop and implement a procedure for classifying, tracking, monitoring and reporting on ALL Change Orders on ALL County contracts. Cause of each Change Order shall be identified and classified in at least one of following: 1) Regulatory change, whether County, State or Federal 2) Other agency requested change, whether County, State, or Federal 3) Design errors change on part of architect or engineer. ID of party must be stated. 4) Design omission change - necessary item that was inadvertently not included. ID of party responsible must be stated. 5) County requested change - revision in County's programmatic or operational requirements, or occupancy schedule after Contract Award. 6) Unforeseen or unforeseeable change - All Change Orders must contain: Value of Change Order Value of prior Change Orders	
<b>ANTI-DISCRIMINATION</b>							
97-67			Amends Ch. 11-A creating new Article VII		6/3/97 Eff: 10 days	Prohibits discrimination in contracting, procurement, bonding, and financial services activities. Creates additional duties for DBD in investigation of discrimination in contracting, procurement & bonding. APPLIES TO CONSTRUCTION CONTRACTS. Imposes sanctions/penalties.	
<b>AFFIRMATIVE ACTION/ MINORITY PARTICIPATION - COMMUNITY SMALL BUSINESS ENTERPRISE (CSBE)</b>							
92-45 82-67 82-65		A.O. ???			7-Jul-92		

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
	R-1049-93				29-Jul-93 Effective 29-Jul-93	Directs County Manager, when considering Affirmative Action Plans in the acquisition of Professional Services under Section 2-10.4 of the Code, to require demonstration and documentation by each competing firm of the actions that have been taken in furtherance of and compliance with that firm's approved Affirmative Action Plan.	
93-106					19-Oct-93 Effective 19-Oct-93	Amends Section 2-8.2 of Code relating to the BBE Program, making it a penalty for a contractor to attempt to comply with this Ordinance through fraud, misrepresentation, or material misstatement; prohibiting certification of such contractors; requiring that County Contracts or subcontracts on County projects be terminated for such misrepresentations; prohibiting the future award of County contracts or subcontracts to such contractors for a period not to exceed 5 years.	
93-136			2-8.2(3)(g)		14-Dec-93 Effective 24-Dec-93	Amends Section 2-8.2(3)(g) of Code to provide for debarment from County contracts of individuals and entities who aid or abet attempts to comply with the BBE Program Ordinance through fraud, misrepresentation or material misstatement	
94-97					17-May-94	Amends Section 2-8.2 of the Code to authorize alternative sanction for contractor's failure to meet a BBE Goal.  Adds Section 2-8.2.2 authorizing same alternative sanction for failure to meet DBE Goal; conditioning eligibility to participate in any future County contract on contractor making up BBE or DBE participation deficit in such future contract.	
94-103		A.O. 3-3	2-8.2		17-May-94 Effective 10 days after enactment.	Amends Section 2-8.2 of Code pertaining to set-asides of County contracts for competition among BBes; establishing payment and reporting requirements when payment and performance bonds are waived on set-asides.	
	R-332-94  R-113-94				20-Jan-94 Effective 20-Jan-94  20-Jan-94 Effective 20-Jan-94	Pertains to contracts and agreements approved on March 4, 1994, and subsequent agendas which contain an option to renew, to limit the delegation of authority to the Manager to exercise such option on the condition that the renewal work be reviewed and a determination be made that there are insufficient minority and women businesses available to meet the County's minority and women business requirements in effect as of the date of exercise of the option.  Directs County Manager to include language in all prospective County contracts and agreements requiring contractor to report amounts of monies received on private sector work and portion thereof paid to BBE, HBE and WBE businesses.	
		A.O. 3-3			11-Jul-95	Governs the purchases, funded in whole or in part by County funds, by all County departments and agencies of goods and services, and construction.  Does not apply to purchases < \$25,000, lease or rental of real property, licenses and permits,	Supersedes 83-67, 84-65, and 92-45.  Also prior A.O. 3-3.

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						concessions, franchise agreements, bond counsel, attorney and/or legal services, and investment banking.	
97-52					20-May-97 Effective 30-May-97	<p>Created CSBE Program applicable to County and Public Health Trust construction contracts; provides for use of contract measures, including Program incentives; Amends Section 2-8.1 of Code to authorize County Manager to determine whether to utilize RFPs and RFQs as alternative methods for selection of contractors to perform public improvements involving expenditures of \$500,000 or less and to require review of projects prior to advertisement to determine whether break up into smaller size contracts will increase opportunities for CSBE participation.</p> <p>Amends Section 2-8.5 of Code to provide Local Preference shall NOT be available on certain contracts.</p> <p>Amends Section 10-38 of Code to provide for debarment for violation of CSBE Program.</p> <p>Creates Advisory Board for oversight of CSBE Program, including Conflict of Interest Waiver.</p>	
97-158			Amended Section 10-33.02		23-Sep-97 Effective 3-Oct-97	<p>Allowed Program participants to be categorized in more than one type of construction; to have bonding capacities in excess of \$3 Million; Requiring Challenges to subcontractor goals be filed 10 days prior to scheduled bid open date; providing sliding scale for bid preference of up to 2% of Bidder's bid price.</p> <p>Streamlines the definition in the existing Ordinance relating to categorization of CSBE firms, the definition of a Level III CSBE firm as it relates to bonding capacity, contracting participation level and contract set-asides, and requirements of certain items under subcontractor goals and certification requirements.</p> <p>Also establishes methodology for bid preferences for non set-aside contracts.</p>	
		A.O. 3-22			7-Oct-97	<p>Amended Participation Provisions for the CSBE Program, as follows:</p> <ol style="list-style-type: none"> <li>1. Allowing CSBEs to be certified in more than one type of construction category</li> <li>2. Requiring challenges to subcontractor goals be filed 10 days prior to scheduled bid opening date</li> <li>3. Providing a sliding scale for bid preference of up to 2% of bidder's price</li> </ol> <p>ATTACHES CSBE PARTICIPATION PROVISIONS DATED OCTOBER, 1997, WITH INSTRUCTIONS TO DISCARD ALL PRIOR CSBE PARTICIPATION PROVISIONS.</p>	
Add:							
	R-583-98		Sections 2-8.2, 2-8.2.3 and 2-8.2.4		19-May-98 Effective 29-May-98	Directs that contracts for privately-funded improvements on County-owned land require the design of such improvements be subject to the requirements of the BBE,	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						<p>HBE and WBE ordinances.</p> <p>All future leases and contracts providing for privately-funded improvements on County-owned land where the funding is provided by for-profit entities, AND amendments to existing leases and contracts therefor, shall require the design of such improvements be subject to the requirements of Sections 2-8.2, 208.2.3 and 208.2.4 of the Code to the same extent as if the design was County rather than privately funded.</p> <p>EXCEPTION: 3 airport contracts: Professional Modification Service, Airbus, and Federal Express.</p> <p>Requirements may be waived by 2/3 vote of BOCC members present.</p>	
	R-583-98 Amended BBE WBE HBE Ordinances				19-May-98 Effective 10 days after date of its adoption unless vetoed by Mayor, etc.	<p>Provides that all future leases and contracts providing for construction of privately-funded improvements on County-owned land where the funding is provided by for-profit entities, and amendments to existing leases and contracts therefore, shall require the design of such improvements be subject to the requirements of Sections 2-8.2, 2-8.2.3, 2-8.2.4 of the Code, to the same extent as if the design was County, rather than privately, funded.</p> <p>Requirements shall NOT apply to the following 3 airport projects: Development leases with: Professional Modifications Services, Inc. Airbus Federal Express</p> <p>Requirements may be waived by 2/3 vote of the Board members present</p>	
93-136 94-97 94-103	R-113-94 R-332-94	A.O. 3-7					
CLEARING HOUSE FOR POSTING NOTICES OF JOB OPPORTUNITIES							
	R-937-98				21-Jul-98 Effective 31-Jul-98	<p>Directs Manager to establish a clearing house for posting notices of job opportunities resulting from the construction of improvements on County property.</p>	
LATE CLAIMS BY CONTRACTORS							
	R-1403-97				18-Nov-97 Effective 28-Nov-97	<p>Directs Manager to advise BOCC when a claim by a contractor that is to be considered by the BOCC was submitted late.</p>	
CONE OF SILENCE							
98-106			Amends Section 2-11.1		21-Jul-98 Effective 31-Jul-98	<p>Establishes "Cone of Silence" for county competitive processes, to protect professional integrity of the process by shielding County professional staff, to require persons/businesses involved in processes to disclose all communications with County professional staff; to require communications between elected officials and County appointed staff during process to be in writing so that it becomes part of public record; to protect the rights of individuals to petition government and elected officials; to enhance the spirit of Sunshine Law.</p> <p>As Cone applies to provision of goods and services other</p>	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
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						<p>than audit and IPSIG contracts:</p> <p>Cone of Silence is defined as a prohibition on:</p> <ul style="list-style-type: none"> <li>a) any communication re a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the County's professional staff, including but not limited to County Manager and his/her staff</li> <li>b) any communication re a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including but not limited to Manager and staff. SHALL NOT APPLY to CDBG, HOME, SHIP and Surtax Funds administered by OCED and communications with County Attorney and staff.</li> </ul> <p>Cone is imposed after advertisement. Manager shall include in any solicitation for goods and services a statement disclosing requirements of ordinance.</p> <p>Cones terminates at time Manager makes written recommendation to BOCC.</p> <p><b>EXCEPTIONS: CONE SHALL NOT APPLY to:</b></p> <p>Oral communications at:</p> <ul style="list-style-type: none"> <li>Pre-Bid conferences</li> <li>Selection Committees</li> <li>Contract negotiations during noticed public meetings</li> <li>Public presentations at BOCC meetings</li> </ul> <p>Written communications at any time with any County employee, official, or member of BOCC UNLESS specifically prohibited by applicable RFP, RFQ or bid documents. Bidder/proposer shall file copy of any written communication with Clerk of Board.</p> <p>Except as provided in 2(c) and (d), Cone shall be imposed on each RFP, RFQ and bid for audit and IPSIG services.</p>	
CONFLICT OF INTEREST and CODE OF ETHICS							
72-82			Section 2-11.1		21-Nov-72 Effective 1-Dec-92	<p>Prohibits Mayor, Commissioners, autonomous, quasi-judicial, advisory, and departmental personnel, including Manager, Department Heads, County Attorney and all Assistant County Attorneys, and all salaried employees from transacting business with the County.</p> <p>None of the above shall enter into any contract or transact any business in which they or a member of their immediate family has a financial interest, direct or indirect, with the County or any person or agency acting for the County</p> <p style="text-align: center;">OR</p> <p>through a firm, corporation, partnership or business entity in which they or any member of their immediate family has a controlling financial interest, direct or indirect.</p> <p>Gifts to the above having a value of \$25 or more, whether in the form of</p> <p style="padding-left: 40px;">Money</p>	



# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							RESCINDED SUPERCEDED REPEALED
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	
						<p>Service</p> <p>Loan</p> <p>Travel</p> <p>Entertainment</p> <p>Hospitality</p> <p>Thing or promise</p> <p>Or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence, in the performance of official duties or was intended as a reward for any official action is prohibited.</p> <p>If any of above-listed persons are employed by a firm, corporation, partnership, etc. in which he or a member of his immediate family does not have a controlling interest, and should that firm, etc. have substantial business commitments to or from the County, or be subject to direct regulation by the County, then said persons shall file a sworn statement disclosing such employment and interest with the Clerk of the Circuit Court.</p> <p>No person listed above shall use or attempt to use his official position to secure special privileges or exemptions for himself or others, except as may be specifically permitted by other legislation.</p> <p>No person listed above shall accept employment or engage in any business/professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position with the County, nor shall he ever use such information directly/indirectly for personal gain.</p> <p>No person listed above shall accept other employment which would impair his independence of judgment in performance of public duties.</p> <p>No person listed above shall receive any compensation for services as officer/employee of County from any source other than County, except as may be permitted by 2-11.</p> <p>No person listed above or a member of his immediate family shall have personal investments in any enterprise which will create a substantial conflict between his private and public interests.</p> <p>No person listed above shall appear before any Board or agency and make a presentation on behalf of a 3rd person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by 3rd person.</p> <p>No person listed above shall participate in any official action directly/indirectly affecting a business in which he or any member of his immediate family has a financial interest</p> <p>OR</p> <p>at a time when he believes or has reason to believe that the said financial interest will be directly affected by his official actions.</p>	

## LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						<p>No person listed above may recommend the services of any lawyer, architect, public relations, or any other person or firm, professional or otherwise to assist in any transaction involving the County. . . unless advanced at public meeting attended by other County officials, officers or employees.</p> <p>Prohibition lasts for 2 years after County employee or service has ceased.</p> <p><b>WAIVER:</b> Requirements may be waived only by an affirmative 2/3 vote of the entire BOCC, after public hearing.</p>	
93-137							
97-105 Amended by 97-215			<p>Amended Chapter 2</p> <p>Amends 2-11.1(R)</p> <p>Amends 2-11.1(S)</p> <p>Amends 2-11.1</p> <p>Amends 2-11.1(T)</p>		<p>8-Jul-97 Effective 60 days <b>7-Sep-97</b> SUNSETS IN 2 YEARS</p>	<p>Created Metropolitan Dade County Commission on Ethics and Public Trust; provided for following: Qualification, term, and appointment of members Applicability of conflict of interest and Code of Ethics Ord. Organization of Ethics Commission Authority to review, interpret, render advisory opinions and letters of instruction Enforce County and Municipal Code of Ethics, Conflict of Interest, Lobbyist Registration and Reporting Ordinances and Citizens' Bill of Rights</p> <p>Amends Code to require Ethics Commission to render Conflict of Interest opinions</p> <p>Amends Code to authorize Ethics Commission to conduct investigations and enforce lobbyist registration and reporting ordinance</p> <p>Amends Code to provide for powers and jurisdiction of Ethics Commission</p> <p>Amends Code to provide for penalties for violation of Conflict of Interest and Code of Ethics Ordinance</p>	
98-73			Section 2-11.1(s)		<p>2-Jun-98 Effective 12-Jun-98</p>	<p>Amended Code to provide that persons or entities who violate the lobbying provisions of County law be prohibited from engaging in lobbying activities for a specified time period, to-wit: 1st Violation - 90 days from date of determination 2nd Violation - 1 year from date of determination 3rd violation - 5 years from date of determination</p> <p>Also provides that a bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code as if the bidder/proposer were a contractor where the bidder/proposer has violated this section, either directly or indirectly or any combination thereof on 3 or more occasions.</p> <p>Direct violation - a violation committed by the bidder/proposer</p> <p>Indirect violation - a violation committed by a lobbyist a violation committed by a lobbyist representing said bidder/proposer</p> <p>A contract entered into in violation of this section shall also render the contract voidable.</p>	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						County Manager shall include these provisions in ALL County bid documents, RFP, RFQ, CBO and CDBG applications, provided however the failure to do so shall not render any contract entered into as the result of such failure illegal per se.	
99-45					11-May-99	Changes sunset provisions of Ordinance 97-105 from 2 years to 5 years from its effective date, which was <span style="color: red;">7-Sep-97</span>	
99-124					21-Sep-99 Effective 1-Oct-99	Amended Conflict of Interest and Code of Ethics Ordinance relating to gifts, providing exemption for solicitation of gifts on behalf of County by employees or departmental personnel while acting in their official capacity.	
99-145			Amends 2-11.1		19-Oct-99 Effective 29-Oct-99	Amends Conflict of Interest and Code of Ethics Ordinance relating to gifts, providing exemption for solicitation of gifts by Commissioners on behalf of the County in the performance of their official duties for use solely by the County in conducting official business.	
99-149			Amends Chapter 2 Article LXXVIII Section 2-1074		19-Oct-99 Effective 29-Oct-99	<p>Upon written complaint filed by IHIG, the Advocate, or the State Attorney which alleges a violation within the jurisdiction of the Ethics Commission, the Ethics Commission shall conduct an investigation of said complaint.</p> <p>Complaint must be sworn to. Within 5 days after receipt of complaint by Ethics Commission, a copy shall be sent to alleged violator.</p> <p>Upon written complaint (except for one filed by IHIG, Advocate or State Attorney), which alleges elements of a violation within Ethics Commission jurisdiction and is executed on Ethics Commission form based substantially upon personal knowledge of complainant and signed under oath/affirmation by complainant, the Ethics Commission shall investigate any alleged violation within its jurisdiction. Within 30 days after receipt of complaint, copy shall be sent to alleged violator.</p> <p>Ethics Commission has 60 days, unless extended for good cause, to determine if complaint is legally sufficient. Sets other time frames.</p> <p>Requires that Executive Director or IHIG supervise the investigations.</p> <p>Amends provisions relating to attorney's fees and statute of limitations.</p>	
99-150			Amends		2-Nov-99	<p>Prohibits certain business transactions.</p> <p>Prohibits any Elected County official Member of the staff of elected County official County Manager Senior Assistant to County Manager Department Director from entering into a business transaction with: Any person/entity that has a contract with County Any shareholder/partner/officer/director/employee of said contractor UNLESS said business transaction is an arm's length transaction made in the ordinary course of business.</p>	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						<p>SHALL NOT APPLY TO:</p> <p>Business transaction between those listed above and a not-for-profit entity</p> <p>Defines "shareholder" as any person owning 10% or more of outstanding capital stock of any corporation.</p> <p>Defines "elected county official" as:</p> <p>Mayor County Commissioners Community Council members</p> <p>Defines "business transaction" as any contract wherein persons either:</p> <p>sell buy deal exchange rent lend barter</p> <p>the following:</p> <p>real property personal property intangible property money any other thing of value or render services for value</p> <p>Empowers Ethics Commission to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics ordinance.</p> <p>Extends jurisdiction of Ethics Commission to:</p> <p>Commissioners autonomous personnel quasi-judicial personnel departmental personnel immediate family lobbyists</p> <p>Jurisdiction may extend to employees, advisory personnel, and immediate family who are required to comply with Conflict of Interest and Code of Ethics Ordinance by vote of at least 2 members of Ethics Commission</p> <p>Ethics Commission has option to refer complaint to State Attorney.</p>	
<b>IN-HOUSE INSPECTOR GENERAL (IHIG) and INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL (IPSIG)</b>							
	R-516-96				13-May-96	Directed County Manager to establish a plan for the implementation of IPSIG for all departments, including but not limited to Aviation Department contracts; directed Manager to submit plan to Aviation Operations Committee and Government Operations Committee for review and consideration.	
		A.O. 3-20			2-Jul-96	Purpose: To establish standards for requesting and funding IPSIG services, selecting an IPSIG, and supervising the	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION						
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT
						activities of an IPSIG.
97-215 Amended O-97-105					16-Dec-97 Effective 26-Dec-97 SUNSETS IN 2 YEARS	Established Office of Inspector General; provided by appointment and removal by Commission on Ethics & Public Trust; provided minimum qualifications, functions, authority, and powers; provided facilities and staff.  Requires 2/3 vote to abolish.  Authorizes IHIG to retain IPSIGs.  Authorizes Commission on Ethics & Public Trust to instruct IHIG to exercise powers.
BOCC Report on 12/18/97						BOCC accepted report of comparison of Independent Review Panel, Ethics Commission, IPSIG, and Inspector General.
BOCC Report on 3/3/98						Salary levels for Executive Director and IHIG were discussed but deleted from the report.  Manager presented 2 options for funding IHIG.
	R-606-99				25-May-99 Effective 4-Jun-99	Established investigative trust fund for Commission on Ethics and Office of Inspector General; authorized Executive Director of Ethics Commission and IHIG to make disbursements for purpose of paying certain investigative expensing and authorizing Finance Director to disburse funds necessary to establish and replenish account.
99-63			Amends 2-1076		18-Jun-99 Effective 28-Jun-99	Gave IHIG power to, on a random basis, perform audits on all county contracts throughout duration of said contract.  Eliminated "mandatory" nature of audits, leaving it up to IHIG to conduct random audits.  Cost of audits, built into contract price, is 1/4 of 1%.
00-105			Amends 2-1076		25-Jul-00	Provides that IHIG shall be given written notice of and an opportunity to attend certain meetings relating to procurement matters. Provides definitions.
DISCLOSURE OF OWNERSHIP						
88-121			Amends Section 2-8.1.1		20-Dec-88	Amends Chapter 2 of Code to add requirement that persons/entities contracting or transacting business with County to disclose certain information. Provides that contracts or transactions entered into in violation of such requirement shall be voidable.  Applies to all contracts or business transactions OR renewals, including but not limited to contracts for: Public improvements Purchase of supplies, materials or services Leases, franchises, concessions or management agreements  Requires person contracting/transacting such business as well as all individuals having any interest (legal, equitable, beneficial or otherwise) in the contract to disclose, <b>UNDER OATH</b> , the following:  Full legal name Business address (Post Office addresses <b>NOT</b> acceptable)  <b>HOWEVER, NO DISCLOSURE IS REQUIRED OF THE FOLLOWING:</b>

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						<p>Subcontractors Materialmen Suppliers Laborers Lenders</p> <p>If a corporation, the information must be provided for each Officer Director Stockholder holding directly/indirectly 5% or more of the outstanding stock in such corporation</p> <p>If a partnership, the information must be provided for each partner.</p> <p>If a trust, the information must be provided for: Trustee Each beneficiary of the trust</p> <p>All assignemnts must comply. Notice of all transferees of interests must be given to County within 30 days of transfer.</p> <p>Disclosure requirements <b>SHALL NOT</b> apply to: Contracts with publicly-traded corporations Contracts with U. S. or any department or agency thereof State or any political subdivision or agency thereof Municipality of this state</p> <p>Any contract/transaction entered into in violation of this section shall be voidable. Sanctions are provided for any person who willfully fails to disclose required information.</p>	
W-9, 8109, Social Security Number							
COLLECTION OF FEES & TAXES							
95-178		A.O. 3-2	Amends Section 2-8.1 c		5-Oct-95 Effective 15-Oct-95	<p>Requires implementation of procedures to ensure collection of taxes, fees and parking tickets from contractors and entities transacting subiness with County.</p> <p>Except in case of small P.O.s as defined by A.O. 3-2, said procedures SHALL require verification by affidavit from each contractor or entity seeking to transact business with County be paid, including but not limited to following: Real and personal property taxes Convention and tourist development taxes Utility taxes Occupational license taxes County issued parking tickets for vehicles registered in name of contractor or business entity</p>	
Financial Disclosure - 77-13							
	R-692-76				18-Jun-76  Ratified by voters	Enacted for purpose of submitting to electors a proposed Citizens' Bill of Rights to County Charter	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						t special election on 7-Sep-76	
77-13			Effectuates  Section 15 of the Citizens' Bill of Rights  Article 2, Section 8 of Fla. Constitution (Sunshine Amendment)  Section 2-11.1(i) renumbered to 2-11.1(j) k, l, m, n, o, p, q, r & s are renumbered to l, m, n, o, p, q, r, s, & t	F.S. 112 F.S. 119	1-Mar-77 Effective 11-Mar-77	Provides for financial disclosure by: County and Municipal elective officials Candidates for County and Municipal elective office County and Municipal Board members Other public officials and outside consultants receiving County or municipal funds Full-time County and Municipal Employees having outside employment must file monthly a report indicating: Source of outside employment Nature of the work being done Any amounts or types of money or other consideration received by the employee from outside employment.	
ENVIRONMENTAL PACKAGING							
	R-738-92						
COLLUSION							
91-32			Amends Section 2-8.1 and Article 11 of Ch. 10 Creates Section 2-8.1.1		5-Mar-91 Effective 15-Mar-91	Provides for presumption of collusion where 2 or more related parties each submit a Bid/Proposal for same County contract/agreement.  Recognizing that utilization of competitive processes for selection of recipients of County contracts is meant to assure governmental goods and services are obtained at lowest price, and Recognizing that responses to Disclosure requirements of 88-121 has revealed instances where related parties have each submitted bids for same contract; and Recognizing that this practice provides opportunity for collusion which frustrates remedial purpose of competi- tive bidding; and BOCC seeks to insure integrity of competitive process utilized to procure goods and services by requiring that where 2 or more related parties each submit a bid/ proposal, such bids/proposals shall be presumed to be collusive.  Presumption may be rebutted by presentation of evidence as to extent of ownership, control and management of such related parties in preparation and submittal of such bids/proposals.  Related parties SHALL mean: Bidders/Proposers or Principals thereof which have direct/indirect ownership interest in another bidder/ proposer for same contract  <b>OR</b>  A parent company or principals thereof of one Bidder/	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
			Adds new Section 10-33.1 to Article II of Ch. 10			<p>Proposer have a direct/indirect ownership interest in another Bidder/Proposer for same contract.</p> <p>Applies to any county lease, permit, concession or management agreement.</p> <p>Bids/Proposals found to be collusive SHALL be rejected.</p> <p><b>BIDDING ON PUBLIC PROJECTS</b></p> <p>Bids precluded from related parties:</p> <p style="padding-left: 20px;">Where 2 or more related parties each submit a Bid/ Proposal for any construction contract subject to this Article, such Bid/Proposal shall be deemed collusive.</p> <p>Presumption may be rebutted.</p> <p>Related parties means same as above stated.</p>	
Life Cycle Cost							
	R-1379-77				6-Dec-77	<p>Established a comprehensive energy management program and policy for County and setting of minimum county-wide guidelines for municipal energy conservation.</p> <p><b>Re Commodities:</b></p> <p>Implement Life Cycle Costing incorporating energy conservation techniques when bidding energy consuming commodities.</p> <p>Review bid specs for energy consuming devices with users to assure proper functional size and/or energy rating is specified to accomplish the minimum performance requirement.</p> <p>Consult with Division of Purchasing for assistance in specifying energy consuming commodities.</p> <p>Encourage purchase of lower brightness paper, kraft paper towels, etc. within using agency.</p> <p>When possible, draft specs for products made from recyclable materials.</p> <p>Incorporate product characteristics into specs which will save energy, i.e. if a product can be made from a choice of materials, specify the material that requires the least energy to produce.</p> <p>Specify a more durable or repairable product rather than throw-away products. The longer a product lasts, the less frequently energy will be expended to replace it.</p> <p>Products which become outmoded due to limited capacity should be offered as a trade-in when bidding on higher capacity products. The old device may be satisfactory to another user with a minor maintenance.</p> <p><b>Re: Construction</b></p> <p>All new construction standards set by ASHRAE 90-75 (Lighting &amp;U Thermal Standards for New Buildings) will be followed with exception of those portions where Code will</p>	



# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						<p>not allow implementation.</p> <p>Beginning 1-1-79, all new construction will fully comply with standards set by ASHRAE 90-75.</p> <p>Total Life-Cycle costing will be employed in the construction of all new facilities.</p> <p>Other energy saving techniques (A Guide to Reducing Energy Use - Budget Costs) will be followed in the design and construction of new facilities.</p> <p>Where practical, solar water heating equipment will be used to supplement conventional water heating devices.</p> <p>NOTE: There are other requirements for Heating, ventilating and air conditioning systems, electrical, maintenance inspection and repair, minor building construction, motor vehicles, and motor fuel.</p>	
<b>MINIMUM QUALIFICATIONS</b>							
	R-14-1-97				18-Nov-97 Effective 28-Nov-97	Directs that requests to BOCC for authority to advertise contracts for competitive bidding or selection state whether the minimum qualifications or experience specified in order to be eligible to bid or submit proposals are in excess of what is legally required to provide the goods or services being purchased and include an analysis of the impact that inclusion of such qualifications or experience may have on the ability of small and minority-owned businesses to compete for such contracts.	
<b>PROBITION OF CONTRACTING WITH COUNTY WHILE IN ARREARS</b>							
00-67							
<b>SURCHARGE</b>							
98-43							
<b>BIDDERS PAST PERFORMANCE</b>							
98-42					21-Apr-98 Effective 1-May-98	<p>Requires a Bidder/Proposer/s past performance on County contracts to be considered in the selection of consultants and contractors for future County contracts.</p> <p>Manager SHALL include language in specs for all county contracts providing that Bidder/Proposer's performance as a prime or sub on previous county contracts shall be taken into account in evaluating bids and proposals received for county contracts.</p>	
<b>RESCINDED ORDINANCES</b>							

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
<b>QUARTERLY REPORTS -</b>							
	R-1634-93				12/14/93	Requires contractors to file quarterly reports as to amount of contract monies received from the County and the amounts therefor that have been paid by the contractor directly to Black, Hispanic, and Women-owned businesses performing part of the contract work.	
	R-113-94				20-Jan-94	Requires contractors to file quarterly reports as to amount of monies received on private sector work and the portion thereof that has been expended with Black, Hispanic, and Women-owned businesses.	
<b>CUBA AFFIDAVIT -</b>							
	R-931-92 Amends R-1044-88				21-Jul-92  19-Jul-88		
	R-656-93				3-Jun-93	Requires any firm, prior to entering into any contract with the County, to submit an affidavit that the firm is not in violation of any provisions of the Cuba Democracy Act of 1992.	
	R-202-96	A.O. 3-12			5-Mar-96	Directed Manager to review A.O. 3-12 to create a new policy prohibiting contracts with firms doing business directly/indirectly with Cuba.	
	R-206-96				5-Mar-96	Authorized the county Manager to add provisions to bid, RFP and RFQ documents to provide that County will not award contracts to any individual who has traveled to Cuba in violation of U. S. travel restrictions during the 10-year period preceding the due date for submittal of bids or responses nor to any entity presently having an officer or holder of a 10% or more ownership interest in such entity who traveled to Cuba in violation of such restrictions during such 10-year period.	
		3-12			6/15/93 Superseded 7/2/96	Except where pre-empted by State or Federal law, this A.O. governs and applies to all County contracts. Exception: Contracts with air carriers that pertain to access to and from MIA. Policy: County shall not enter into a contract with any person or entity that does business with Cuba, as provided herein, or that has traveled to Cuba, as provided herein. Before awarding a bid, County shall require an affidavit attesting to same.	
<b>SOUTH AFRICA RESOLUTION -</b>							
	R-1044-88						Superseded by
	R-907-93				10/5/93 Effective 10/5/93	Established policy for County to restrict purchase of goods and services originating from South Africa and restricting the purchases of goods,	

# LEGISLATION RELATING TO COUNTY PROCUREMENT

ENACTING LEGISLATION							
ORDINANCE No.	RESOLUTION No.	ADM. ORDER No.	SECTION OF CODE	FLORIDA STATUTE	DATE ENACTED	CONTENT	RESCINDED SUPERCEDED REPEALED
						services, and investments from firms conducting business activities in South Africa.	
	R-1237-93				10/5/93	Established policy for County to restrict purchase of goods and services originating from South Africa and restricting the purchases of goods, services, and investments from firms conducting business activities in South Africa.	Rescinded R-907-93
ENVIRONMENTAL GUARANTY -							
	R-221-94				2/3/94	Requires personal guaranty of officers and directors, general partners, or owners of entities that enter into contracts relating to environmental matters or construction contracts with the County.	Rescinded by R-1587-94
	1587-94				10/6/94	Rescinds provisions of R-221-94 requiring a personal guaranty of officers and directors, general partners, or owners of entities that enter into construction contracts with the County.	Modified R-221-94
	R-344-96				4/2/96	Because R-221-94 resulted unintended and detrimental consequences for those who enter into construction contracts with the County, it was hereby rescinded. Because R-1487-94 had rescinded those provisions of R-221-94 that required a personal guaranty of officers, directors, general partners, or owners of entities that enter into construction contracts with the County, and because the remaining provisions of R-221-94, which requires personal guaranty of officers, directors, general partners or owners of entities that enter into contracts relating to environmental matters have resulted in unintended and detrimental consequences, it was likewise rescinded, as amended by R-1587-94.	Rescinded R-221-94 and R-1587-94

## Appendix C - Administrative Order No.: 3-2

### Administrative Order No.: 3-2

Ordered: 1/16/96

Effective: 1/16/96

#### **AUTHORITY:**

Sections 2-8.1, 2-8.2, 4.02 and 4.03 of the Metropolitan Dade Miami-Dade County Charter, Resolutions R-1672-81 and R-1075-83 of the Board of Miami-Dade County Commissioners.

#### **SUPERSEDES:**

This Administrative Order supersedes Administrative Order 3-2, dated July 13, 1993.

#### **SCOPE:**

This Administrative Order governs routine and emergency purchases of the following items by Miami-Dade County departments and agencies:

- (1) Commodities, equipment and services required to support the operation of the Dade Miami-Dade County Government; and
- (2) Construction services relating to the maintenance and repair of building facilities.

This Administrative Order also authorizes the following departments, and any new or existing departments, to contract for construction services and other contracts approved by Miami-Dade County Manager and to collect vendor information pursuant to local, state and federal law: Park & Recreation, Public Works, Aviation, HUD, WASD, Solid Waste, Seaport and MDTA.

All these departments must be required to post their information online on the common e-procurement application.

This Administrative Order does not apply to the purchasing activities listed below, or those under the jurisdiction of AO 3-16.

- (1) The acquisition of architectural, engineering, landscape design, or land surveying services, which are specifically and separately governed by Section 2-10.4 of the Dade Miami-Dade County Code and Chapter 287, Florida Statutes.
- (2) The purchase, lease or rental of real property, licenses and permits, concessions, franchise agreements, certain types of managerial, technical and professional services, and technologies.

#### **POLICY:**

For Miami-Dade County to function expeditiously, it is necessary that commodities and

services of suitable standards and quantity be available to Miami-Dade County agencies at the best price.

Miami-Dade County also seeks to promote full and equitable economic participation of all segments of the community. With this objective in mind, a special effort shall be made to obtain these items from minority and small businesses in compliance with Administrative Orders 3-3, 3-17, 3-18, and 3-19.

## **SECTION I - VENDOR REGISTRATION**

Businesses must have a complete vendor registration on file prior to award of a bid. The Procurement Management Division (PMD) and the Department of Business Development (DBD) shall be responsible for determining the criteria for vendor registration and maintaining an up-to-date, vendor registration system. PMD and DBD will establish policies and procedures for the collection of a yearly administrative fee.

## **SECTION II - RESPONSIBILITY OF GENERAL SERVICES ADMINISTRATION (GSA) PROCUREMENT MANAGEMENT DIVISION**

The responsibility of the General Services Administration, Procurement Management Division, shall include carrying out the procedures below and establishing such forms and procedures necessary to implement this Administrative Order, subject to the approval of the Director of General Services Administration, or designee.

The responsibility of the Procurement Management Director, or designee, shall include:

1. Development, solicitation (to include placing notices in newspapers of general circulation and minority newspapers), and award of contracts subject to the limitations contained in Section III. This includes, but is not limited to, reviewing material/service standards and specifications, determining method of source selection, evaluating proposals, developing bid evaluation criteria and rejecting bids.
2. Signing and executing all purchase orders, contracts and related documents, which are awarded in conformance with this Administrative Order.
3. Establishing requirements for Payment and/or Performance Bonds in such amount as may be deemed reasonably necessary to protect the best interest of Miami-Dade County. A Bid Bond, not to exceed ten percent (10%) of the contract price, may be prescribed.
4. Administering executed contracts in conjunction with user departments in order to: (a) determine satisfactory vendor performance as documented in the bid specifications, (b) place vendors on probational status or terminate contracts or suspend vendors when performance is substandard.

5. Determining the satisfactory performance of Miami-Dade County department's compliance with contractual requirements.
6. Exercising options to renew or cancel contracts.
7. Developing and establishing training programs for all Miami-Dade County departments involved in the procurement process.
8. Establishing and amending procedures to implement all ordinances and resolutions affecting the procurement process. The PMD procedures manual shall be reviewed by Audit and Management Services and Miami-Dade County Attorney's Office.
9. Establishing and administering the vendor registration process in conjunction with the Department of Business Development. Collecting and reporting vendor performance information and other relevant data mandated by Miami-Dade County, State and/or Federal Law.
10. Developing a quarterly reporting method to provide the Board of Miami-Dade County Commissioners with a list of contracts for commodities and services exceeding \$100,000 awarded by Miami-Dade County Manager, or designee, under the provisions contained in Section III.
11. Assisting the Department of Business Development (DBD) in identifying purchases with the potential for establishing Set-Asides, Sub-Vendor Goals, or other affirmative action requirements.
12. Chairing the Procurement Recycling Committee.

### **SECTION III**

#### **AUTHORITY TO AWARD CONTRACTS**

1. The Board of Miami-Dade County Commissioners shall award all contracts greater than \$500,000, and approve all contract modifications not contained in the paragraph below.

2. Miami-Dade County Manager, or designee, shall have the authority to:

- award contracts up to \$500,000.
- approve contract modifications that increase the contract value by no more than \$100,000, or 15% of the contract price, whichever is less.
- extend expiring contracts for a maximum of 90 days, with a prorated dollar authorization.
- approve contract modifications that reduce the maximum value of the contract.
- authorize departments to shift dollar allocations among multiple vendors under a single contract.
- administer the Bid Protest Procedure as per Section 2-8.3 and 2-8.4 of the Code.
- reject all bids when such rejection is in Miami-Dade County's best interest.

Awards shall be dependent upon the ability of the vendor to complete prescribed activities in a timely manner. If the vendor fails to complete these activities:

- (a) For awards of \$500,000 or less, Miami-Dade County Manager, or designee, may render the vendor in default, re-award the contract to the next lowest bidder and subject the defaulted vendor to re-procurement charges or to forfeiture of the bid bond or security in an amount equal to the damages sustained by Miami-Dade County as a result of the default.
- (b) For awards of over \$500,000, Miami-Dade County Manager, or designee, will recommend to the Board of Miami-Dade County Commissioner the best course of action to safeguard the interests of Miami-Dade County.

## **SECTION IV METHODS FOR PURCHASING COMMODITIES AND SERVICES**

### **A. PURCHASES OF \$100,000 OR MORE**


By posting bids online you fulfill the legal requirements to advertise bids.

Sealed written bids shall be solicited from vendors for each individual purchase of \$100,000 or more and each blanket or continuing order which can reasonably be anticipated to aggregate \$100,000 or more within twelve months. **PMD shall solicit these bids or proposals**

by publishing a single notice in newspapers of general circulation, including minority newspapers, in Dade Miami-Dade County. This notice shall be published once at least fourteen (14) calendar days prior to the Bid closing date.

## **B. PURCHASES OF \$5,000 BUT LESS THAN \$100,000**

Include possibility  
of electronic  
submission of bids




Each individual purchase of \$5,000 to \$25,000 may be made by telephone, facsimile or written bids, in accordance with PMD Procedures Manual. Each individual purchase or each blanket or continuing purchase of more than \$25,000 shall be made by sealed written bids.

## **C. SMALL PURCHASE ORDER (LESS THAN \$5,000)**

1. Each individual purchase request with a total value of less than \$5,000, for a specific commodity, during one fiscal year, will be governed by this Section. Guidelines for small purchase orders will be established by the PMD Director, or designee, in the Procurement Division's Procedures Manual. Department Directors shall be responsible for administering procedures governing this process for their departments and ensure compliance with PMD procedures.

Include possibility  
of electronic  
submission of  
quotations



2. Before a purchase governed by this Section may be made, telephone and/or facsimile quotations will be sought, whenever feasible, from no fewer than three qualified vendors from Miami-Dade County's Bidders Lists, including at least one minority vendor, whenever available. Each vendor's quotation will be fully documented on a Small Purchase Order Form. This process shall not be authorized for purchases classified as capital equipment, data technology equipment and cellular phones.
3. Where feasible departments shall attempt to place small purchase orders with registered minority vendors and/or neighborhood businesses (i.e., small, individual or family-owned, local vendor).
4. The PMD Director, or designee shall monitor small purchase orders to ensure compliance with established procedures and to consolidate commonly used products/services into Miami-Dade County contracts.



## **D. EMERGENCY PURCHASES**

1. An Emergency purchase shall be defined as an unforeseen or unanticipated urgent and immediate need for equipment, supplies or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal purchasing procedures. Any purchase under this section shall not be governed by Section 2-8.4 of the Code.
2. In the event Miami-Dade County Manager, or designee, determines that an emergency purchase is necessary, a contract may be awarded without utilizing the competitive bid procedures regardless of the amount of expenditure. However, if the expenditure is in excess of \$100,000, Miami-Dade County Manager, or designee, shall present the circumstances to the Board of Miami-Dade County Commissioners for ratification.

## **E. BID WAIVERS**

Upon written recommendation of Miami-Dade County Manager, or designee, bid procedures may be waived when it is determined that there is insufficient time to solicit, prepare and evaluate bids or it is in the best interest of Miami-Dade County.

Bid Waiver requests shall be prepared by the user department and submitted to the PMD Director, or designee, for review and recommendation to Miami-Dade County Manager.

Where the expenditure exceeds \$100,000, Miami-Dade County Manager or designee shall present the Bid Waiver request to the Board of Miami-Dade County Commissioners for award. Additional moneys and/or extensions of time may be requested during the bid waiver period and are subject to the approval procedures for contract modification contained in Section III.

## **F. NONCOMPETITIVE/SOLE SOURCES**

Where the PMD Director, or designee, is satisfied that there is only one source of supply or determines that a noncompetitive situation exists for goods or services to be purchased, the provisions of Section IV may be waived by Miami-Dade County Manager, or designee.

Where the expenditure exceeds \$100,000, Miami-Dade County Manager, or designee, shall present the Sole Source Purchase request to the Board of Miami-Dade County Commissioners for award. Additional moneys and/or extensions of time may be requested during the contract period and are subject to the approval procedures for contract modifications contained in Section III.

#### **G. ACCESSING CONTRACTS FROM OTHER GOVERNMENT AGENCIES**

Miami-Dade County Manager, or designee, may award a contract by accessing items from any Federal Contract, a State of Florida contract, or contracts from any subdivisions, or from any other governmental entity, and from Not For Profit Organizations, provided the item is not available through an existing Miami-Dade County contract at the same or lower price. The authority limits of Section III also apply to these awards.

### **SECTION V PERFORMANCE OF VENDORS**

#### **POLICY**

1. It shall be the policy of Metropolitan Dade Miami-Dade County to monitor the performance of its vendors and to implement corrective measures when such performance falls below the standards established by the contract.
2. The PMD Director, or designee, shall establish procedures for performance monitoring, probation, suspension, vendor debarment, and contract termination.

This Administrative Order is hereby submitted to the Board of Miami-Dade County Commissioners of Dade Miami-Dade County, Florida.

Armando Vidal, P.E.  
Miami-Dade County Manager

**CHAPTER 287  
PROCUREMENT OF PERSONAL PROPERTY AND SERVICES**

**PART I  
COMMODITIES, INSURANCE, AND CONTRACTUAL SERVICES  
(ss. 287.001-287.1345)**

**PART II  
MEANS OF TRANSPORT (ss. 287.14-287.20)**

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**PART I  
COMMODITIES, INSURANCE, AND  
CONTRACTUAL SERVICES**

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**287.001 Legislative intent.**--The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured. It is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services; that detailed justification of agency decisions in the procurement of commodities and contractual services be maintained; and that adherence by the agency and the contractor to specific ethical considerations be required.

**History.**--s. 3, ch. 82-196; s. 10, ch. 90-268.

**287.012 Definitions.**--The following definitions shall apply in this part:

(1) "Agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the Board of Regents or the State University System.

(2) "Agency head" means, with respect to an agency headed by a collegial body, the executive director or chief administrative officer of the agency.

(3) "Artist" means an individual or group of individuals who profess and practice a demonstrated creative talent and skill in the area of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio, or tape and sound recording or in any other related field.

(4) "Commodity" means any of the various supplies, materials, goods, merchandise, food, equipment, and other personal property, including a mobile home, trailer, or other portable structure with floor space of less than 3,000 square feet, purchased, leased, or otherwise contracted for by the state and its agencies. "Commodity" also includes interest on deferred-payment commodity contracts approved pursuant to s. 287.063 entered into by an agency for the purchase of other commodities. However, commodities purchased for resale are excluded from this definition. Further, a prescribed drug, medical supply, or device required by a licensed health care provider as a part of providing health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration for clients at the time the service is provided is not considered to be a "commodity." Printing of publications shall be considered a commodity when let upon contract pursuant to s. 283.33, whether purchased for resale or not.

(5) "Competitive sealed bids" or "competitive sealed proposals" refers to the receipt of two or more sealed bids or proposals submitted by responsive and qualified bidders or offerors and includes bids or proposals transmitted by electronic means in lieu of or in addition to written bids or proposals.

(6) "Contractor" means a person who contracts to sell commodities or contractual services to an agency.

(7) "Contractual service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. "Contractual service" does not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255 and rules adopted thereunder.

(8) "Department" means the Department of Management Services.

(9) "Exceptional purchase" means any purchase of commodities or contractual services excepted by law or rule from the requirements for competitive solicitation or acquisition, including, but not limited to, purchases from a single source, purchases upon receipt of less than two responsive bids or proposals, purchases without publication of notice in the Florida Administrative Weekly, and exceptions granted by the department for a purchase of commodities from other than a state term contract vendor.

(10) "Extension" means an increase in the time allowed for the contract period due to circumstances which, without fault of either party, make performance impracticable or impossible, or which prevent a new contract from being executed, with or without a proportional increase in the total dollar amount, with any increase to be based on the method and rate previously established in the contract.

(11) "Invitation to bid" means a written solicitation for competitive sealed bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, group of commodities, or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation published or transmitted by electronic means.

(12) "Minority business enterprise" has the same meaning as that provided in s. 288.703.

(13) "Qualified bidder," "responsible bidder," "qualified offeror," or "responsible offeror" means a person who has the capability in all respects to perform fully the contract requirements and has the integrity and reliability which will assure good faith performance.

(14) "Renewal" means contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal.

(15) "Request for proposals" means a written solicitation for competitive sealed proposals with the title, date, and hour of the public opening designated. **A written solicitation includes a solicitation published or transmitted by electronic means.** The request for proposals is used when the agency is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when the agency is requesting that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.

(16) "Responsive bid" or "responsive proposal" means a bid or proposal submitted by a responsive, and responsible or qualified, bidder or offeror which conforms in all material respects to the invitation to bid or request for proposals.

(17) "Responsive bidder" or "responsive offeror" means a person who has submitted a bid or proposal which conforms in all material respects to the invitation to bid or request for proposals.

(18) "Term contract" means an indefinite quantity contract wherein a party agrees to furnish commodities or contractual services during a prescribed period of time, the expiration of which concludes the contract.

(19) "Office" means the Office of Supplier Diversity of the Department of Management Services.

**History.**--s. 22, ch. 69-106; s. 1, ch. 80-374; ss. 4, 8, ch. 82-196; s. 1, ch. 83-99; s. 1, ch. 83-192; s. 1, ch. 84-158; s. 29, ch. 85-349; s. 1, ch. 86-52; ss. 6, 20, ch. 88-384; s. 1, ch. 89-289; s. 2, ch. 90-147; s. 4, ch. 90-224; s. 11, ch. 90-268; s. 36, ch. 90-335; s. 15, ch. 92-98; s. 107, ch. 92-142; s. 246, ch. 92-279; s. 55, ch. 92-326; s. 8, ch. 94-322; s. 1, ch. 95-168; s. 8, ch. 96-236; s. 24, ch. 96-320; s. 16, ch. 98-65; s. 74, ch. 98-279; s. 31, ch. 2000-164; s. 9, ch. 2000-286.

**287.042 Powers, duties, and functions.**--The department shall have the following powers, duties, and functions:

(1)(a) To canvass all sources of supply, establish and maintain a vendor list, and contract for the purchase, lease, or acquisition in any manner, including purchase by installment sales or lease-purchase contracts which may provide for the payment of interest on unpaid portions of the purchase price, of all commodities and contractual services required by any agency under competitive bidding or by contractual negotiation. Any contract providing for deferred payments and the payment of interest shall be subject to specific rules adopted by the department.

(b) The department may remove from its vendor list any source of supply which fails to fulfill any of its duties specified in a contract with the state. It may reinstate any such source of supply when it is satisfied that further instances of default will not occur.

(c) In order to promote cost-effective procurement of commodities and contractual services, the department or an agency may enter into contracts that limit the liability of a vendor consistent with s. 672.719.

(d) The department shall issue commodity numbers for all products of the corporation operating the correctional industry program which meet or exceed department specifications.

(e) The department shall, beginning October 1, 1991, include the products offered by the corporation on any listing prepared by the department which lists term contracts executed by the department. The products or services shall be placed on such list in a category based upon specification criteria developed through a joint effort of the department and the corporation and approved by the department.

(f) The corporation may submit products and services to the department for testing, analysis, and review relating to the quality and cost comparability. If, after review and testing, the department approves of the products and services, the department shall give written notice thereof to the corporation. The corporation shall pay a reasonable fee charged for testing its products by the Department of Agriculture and Consumer Services.

(g) The department may collect fees for the use of its electronic information services. The fees may be imposed on an individual transaction basis or as a fixed subscription for a designated period of time. At a minimum, the fees shall be determined in an amount sufficient to cover the department's projected costs of such services, including overhead in accordance with the policies of the Department of Management Services for computing its administrative assessment. All fees collected pursuant to this paragraph shall be deposited in the Grants and Donations Trust Fund for disbursement as provided by law.

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which state agencies shall make purchases pursuant to s. 287.056, and under which a federal, Miami-Dade County, municipality, institutions qualified pursuant to s. 240.605, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged, or other local public agency may make purchases. The department may restrict purchases from some term contracts to state agencies only for those term contracts where the inclusion of other governmental entities will have an adverse effect on competition or to those federal facilities located in this state. In such planning or purchasing the Office of Supplier Diversity may monitor to ensure that opportunities are afforded for contracting with minority business enterprises. The department, for state term contracts, and all agencies, for multiyear contractual services or term contracts, shall explore reasonable and economical means to utilize certified minority business enterprises. Purchases by any Miami-Dade County, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged, or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

(b) As an alternative to any provision in s. 120.57(3)(c), the department may proceed with the bid solicitation or contract award process of a term contract bid when the



secretary of the department or his or her designee sets forth in writing particular facts and circumstances which demonstrate that the delay incident to staying the bid process or contract award process would be detrimental to the interests of the state. After the award of a contract resulting from a bid in which a timely protest was received and in which the state did not prevail, the contract may be canceled and reawarded to the prevailing party.

(c) Any person who files an action protesting a decision or intended decision pertaining to contracts administered by the department, a water management district, or a state agency pursuant to s. 120.57(3)(b) shall post with the department, the water management district, or the state agency at the time of filing the formal written protest a bond payable to the department, the water management district, or state agency in an amount equal to 1 percent of the department's, the water management district's, or the state agency's estimate of the total volume of the contract or \$5,000, whichever is less, which bond shall be conditioned upon the payment of all costs which may be adjudged against him or her in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. For protests of decisions or intended decisions of the department pertaining to agencies' requests for approval of exceptional purchases, the bond shall be in an amount equal to 1 percent of the requesting agency's estimate of the contract amount for the exceptional purchase requested or \$5,000, whichever is less. In lieu of a bond, the department, the water management district, or state agency may, in either case, accept a cashier's check or money order in the amount of the bond. If, after completion of the administrative hearing process and any appellate court proceedings, the water management district or agency prevails, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney's fees. This section shall not apply to protests filed by the Office of Supplier Diversity. Upon payment of such costs and charges by the person protesting the award, the bond, cashier's check, or money order shall be returned to him or her. If the person protesting the award prevails, he or she shall recover from the agency or water management district, all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.

(3) To have general supervision, through the state agencies, of all storerooms and stores operated by the agencies and to have supervision of inventories of all commodities belonging to the state agencies. The duties imposed by this section do not relieve any state agency from accountability for commodities under its control.

(4) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

(a) Development of a list of interested vendors to be maintained by classes of commodities and contractual services. This list shall not be used to prequalify vendors or to exclude any interested vendor from bidding.

(b) Development of procedures for the releasing of requests for proposals, invitations to bid, and other competitive acquisitions which procedures shall include, but are not limited to, notice by publication in the Florida Administrative Weekly, on Government Services Direct, or by mail at least 10 days before the date set for submittal of proposals or bids. The Office of Supplier Diversity may consult with agencies regarding the development of bid distribution procedures to ensure that maximum distribution is afforded to certified minority business enterprises as defined in s. 288.703.

(c) Development of procedures for the receipt and opening of bids or proposals by an agency. Such procedures shall provide the Office of Supplier Diversity an opportunity to monitor and ensure that the contract award is consistent with the original request for proposal or invitation to bid, in accordance with <sup>1</sup>s. 287.0945(6), and subject to the review of bid responses within standard timelines.

(d) Development of procedures to be used by an agency in deciding to contract, including, but not limited to, identifying and assessing in writing project needs and requirements, availability of agency employees, budgetary constraints or availability, facility equipment availability, current and projected agency workload capabilities, and the ability of any other state agency to perform the services.

(e) Development of procedures to be used by an agency in maintaining a contract file for each contract which shall include, but not be limited to, all pertinent information relating to the contract during the preparatory stages, a copy of the invitation to bid or request for proposals, documentation relating to the bid process, opening of bids, evaluation and tabulation of bids, and determination and notice of award of contract.

(5)(a) To prescribe the methods of securing competitive sealed bids and proposals, or negotiating and awarding commodity and contractual services contracts, unless otherwise provided by law.

(b) To prescribe, by September 1, 1995, procedures for procuring information technology consultant services which provide for public announcement and qualification, competitive selection, competitive negotiation, contract award, and prohibition against contingent fees. Such procedures shall be limited to information technology consultant contracts for which the total project costs, or planning or study activities, are estimated to exceed the threshold amount provided for in s. 287.017, for CATEGORY TWO.

(6) To prescribe specific commodities and quantities to be purchased locally.

(7)(a) To govern the purchase by any agency of any commodity or contractual service and to establish standards and specifications for any commodity.

(b) Except for the purchase of insurance, the department may delegate to agencies the authority for the contracting for, or the purchase, lease, or acquisition of, commodities or contractual services.

(8) To establish definitions and classes of commodities and contractual services. Agencies shall follow the definitions and classes of commodities and contractual services established by the department in acquiring or purchasing commodities or contractual services. The authority of the department under this section shall not be construed to impair or interfere with the determination by state agencies of their need for, or their use of, services including particular specifications.

(9) To furnish copies of any commodity and contractual service purchasing rules to the Comptroller and all agencies affected thereby. The Comptroller shall not approve any account or direct any payment of any account for the purchase of any commodity or the procurement of any contractual service covered by a purchasing or contractual service rule except as authorized therein. The department shall furnish copies of rules adopted by the department to any Miami-Dade County, municipality, or other local public agency requesting them.

(10) To require that every agency furnish information relative to its commodity and contractual services purchases and methods of purchasing commodities and contractual services to the department when so requested.

(11) To prepare statistical data concerning the method of procurement, terms, usage, and disposition of commodities and contractual services by state agencies. All agencies shall furnish such information for this purpose to the office and to the department, as the department or office may call for, but no less frequently than annually, on such forms or in such manner as the department may prescribe.

(12) To establish and maintain programs for the purpose of disseminating information to government, industry, educational institutions, and the general public concerning policies, procedures, rules, and forms for the procurement of commodities and contractual services.

(13) Except as otherwise provided herein, to adopt rules necessary to carry out the purposes of this section, including the authority to delegate to any state agency any and all of the responsibility conferred by this section, retaining to the department any and all authority for supervision thereof. Such purchasing of commodities and procurement of contractual services by state agencies shall be in strict accordance with the rules and procedures prescribed by the Department of Management Services.

(14) If the department determines that it is in the best interest of the state, to award to multiple suppliers contracts for commodities and contractual services established by the department for use by all agencies. Such awards may be on a statewide or regional basis. If regional contracts are established by the department, multiple supplier awards may be based upon multiple awards for regions. Agencies may award contracts to the lowest qualified responsive bidder on a statewide or regional basis.

(15) To procure and distribute state-owned surplus tangible personal property and federal surplus tangible personal property allocated to the state by the Federal Government.

(16)(a) To enter into joint agreements with governmental agencies, as defined in s. 163.3164(10), for the purpose of pooling funds for the purchase of commodities, information technology resources, or services that can be used by multiple agencies. However, the department shall consult with the State Technology Office on joint agreements that involve the purchase of information technology resources. Agencies entering into joint purchasing agreements with the department shall authorize the department to contract for such purchases on their behalf.

(b) Each agency that has been appropriated or has existing funds for such purchases, shall, upon contract award by the department, transfer their portion of the funds into the department's Grants and Donations Trust Fund for payment by the department. These funds shall be transferred by the Executive Office of the Governor pursuant to the agency budget amendment request provisions in chapter 216.

(c) Agencies that sign such joint agreements are financially obligated for their portion of the agreed-upon funds. If any agency becomes more than 90 days delinquent in paying such funds, the Department of Management Services shall certify to the Comptroller the amount due, and the Comptroller shall transfer the amount due to the Grants and Donations Trust Fund of the department from any of the agency's available funds. The

Comptroller shall report all such transfers and the reasons for such transfers to the Executive Office of the Governor and the legislative appropriations committees.

(17) To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, when it is determined to be cost-effective and in the best interest of the state, to enter into a written agreement authorizing a state agency to make purchases under a contract approved by the department and let by the Federal Government, another state, or a political subdivision.

**History.**--s. 22, ch. 69-106; s. 1, ch. 70-150; s. 1, ch. 79-92; s. 3, ch. 80-374; s. 179, ch. 81-259; ss. 4, 8, ch. 82-196; s. 2, ch. 83-99; s. 2, ch. 83-192; s. 135, ch. 83-217; s. 1, ch. 84-6; s. 1, ch. 85-2; ss. 21, 32, ch. 85-104; s. 7, ch. 88-384; s. 10, ch. 89-291; s. 11, ch. 90-136; s. 14, ch. 90-268; s. 36, ch. 90-302; s. 5, ch. 91-162; s. 1, ch. 91-298; s. 16, ch. 92-98; s. 108, ch. 92-142; ss. 81, 128, ch. 92-152; s. 249, ch. 92-279; s. 55, ch. 92-326; s. 9, ch. 94-322; s. 867, ch. 95-148; s. 2, ch. 95-216; s. 4, ch. 95-396; s. 4, ch. 96-236; s. 61, ch. 96-410; s. 37, ch. 97-100; s. 35, ch. 97-286; s. 20, ch. 97-296; s. 78, ch. 98-279; s. 44, ch. 99-399; s. 8, ch. 2000-133; s. 32, ch. 2000-164; s. 10, ch. 2000-286.

<sup>1</sup>**Note.**--Repealed by s. 27, ch. 96-320. Section 287.0945(9), created by s. 1, ch. 96-412, was redesignated by the reviser as s. 373.607.

#### **287.0943 Certification of minority business enterprises.--**

(1) A business certified by any local governmental jurisdiction or organization shall be accepted by the Department of Management Services, Office of Supplier Diversity, as a certified minority business enterprise for purposes of doing business with state government when the Office of Supplier Diversity determines that the state's minority business enterprise certification criteria are applied in the local certification process.

(2)(a) The office is hereby directed to convene a "Minority Business Certification Task Force." The task force shall meet as often as necessary, but no less frequently than annually.

(b) The task force shall be regionally balanced and comprised of officials representing the department, counties, municipalities, school boards, special districts, and other political subdivisions of the state who administer programs to assist minority businesses in procurement or development in government-sponsored programs. The following organizations may appoint two members each of the task force who fit the description above:

1. The Florida League of Cities, Inc.
2. The Florida Association of Counties.
3. The Florida School Boards Association, Inc.
4. The Association of Special Districts.
5. The Florida Association of Minority Business Enterprise Officials.
6. The Florida Association of Government Purchasing Officials.

In addition, the Office of Supplier Diversity shall appoint seven members consisting of three representatives of minority business enterprises, one of whom should be a woman business owner, two officials of the office, and two at-large members to ensure balance. The chairperson of the Legislative Committee on Intergovernmental Relations or a designee shall be a member of the task force, ex officio. A quorum shall consist of one-third of the current members, and the task force may take action by majority vote. Any vacancy may only be filled by the organization or agency originally authorized to appoint the position.

(c) The purpose of the task force will be to propose uniform criteria and procedures by which participating entities and organizations can qualify businesses to participate in procurement or contracting programs as certified minority business enterprises in accordance with the certification criteria established by law.

(d) A final list of the criteria and procedures proposed by the task force shall be considered by the secretary. The task force may seek technical assistance from qualified providers of technical, business, and managerial expertise to ensure the reliability of the certification criteria developed.

(e) In assessing the status of ownership and control, certification criteria shall, at a minimum:

1. Link ownership by a minority person, as defined in s. 288.703(3), or as dictated by the legal obligations of a certifying organization, to day-to-day control and financial risk by the qualifying minority owner, and to demonstrated expertise or licensure of a minority owner in any trade or profession that the minority business enterprise will offer to the state when certified. Businesses must comply with all state licensing requirements prior to becoming certified as a minority business enterprise.

2. If present ownership was obtained by transfer, require the minority person on whom eligibility is based to have owned at least 51 percent of the applicant firm for a minimum of 2 years, when any previous majority ownership interest in the firm was by a nonminority who is or was a relative, former employer, or current employer of the minority person on whom eligibility is based. This requirement shall not apply to minority persons who are otherwise eligible who take a 51-percent-or-greater interest in a firm that requires professional licensure to operate and who will be the qualifying licenseholder for the firm when certified. A transfer made within a related immediate family group from a nonminority person to a minority person in order to establish ownership by a minority person shall be deemed to have been made solely for purposes of satisfying certification criteria and shall render such ownership invalid for purposes of qualifying for such certification if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subparagraph, the term "related immediate family group" means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

3. Require that prospective certified minority business enterprises be currently performing or seeking to perform a useful business function. A "useful business function" is defined as a business function which results in the provision of materials, supplies, equipment, or services to customers. Acting as a conduit to transfer funds to a nonminority business does not constitute a useful business function unless it is done so in a normal industry practice. As used in this section, the term "acting as a conduit" means, in part, not acting as a regular dealer by making sales of material, goods, or

supplies from items bought, kept in stock, and regularly sold to the public in the usual course of business. Brokers, manufacturer's representatives, sales representatives, and nonstocking distributors are considered as conduits that do not perform a useful business function, unless normal industry practice dictates.

(f) When a business receives payments or awards exceeding \$100,000 in one fiscal year, a review of its certification status or an audit will be conducted within 2 years. In addition, random reviews or audits will be conducted as deemed appropriate by the Office of Supplier Diversity.

(g) The certification criteria approved by the task force and adopted by the Department of Management Services shall be included in a statewide and interlocal agreement as defined in s. 287.09431 and, in accordance with s. 163.01, shall be executed according to the terms included therein.

(h) The certification procedures should allow an applicant seeking certification to designate on the application form the information the applicant considers to be proprietary, confidential business information. As used in this paragraph, "proprietary, confidential business information" includes, but is not limited to, any information that would be exempt from public inspection pursuant to the provisions of s. 119.07(3); trade secrets; internal auditing controls and reports; contract costs; or other information the disclosure of which would injure the affected party in the marketplace or otherwise violate s. 286.041. The executor in receipt of the application shall issue written and final notice of any information for which noninspection is requested but not provided for by law.

(i) A business that is certified under the provisions of the statewide and interlocal agreement shall be deemed a certified minority enterprise in all jurisdictions or organizations where the agreement is in effect, and that business is deemed available to do business as such within any such jurisdiction or with any such organization statewide. All state agencies must accept minority business enterprises certified in accordance with the statewide and interlocal agreement of s. 287.09431, and that business shall also be deemed a "certified minority business enterprise" as defined in s. 288.703. However, any governmental jurisdiction or organization that administers a minority business purchasing program may reserve the right to establish further certification procedures necessary to comply with federal law.

(j) The statewide and interlocal agreement shall be guided by the terms and conditions found therein and may be amended at any meeting of the task force and subsequently adopted by the secretary of the Department of Management Services. The amended agreement must be enacted, initialed, and legally executed by at least two-thirds of the certifying entities party to the existing agreement and adopted by the state as originally executed in order to bind the certifying entity.

(k) The task force shall meet for the first time no later than 45 days after the effective date of this act.

(3)(a) The office shall review and evaluate the certification programs and procedures of all prospective executors of the statewide and interlocal agreement to determine if their programs exhibit the capacity to meet the standards of the agreement.

(b) The evaluations shall, at a minimum, consider: the certifying entity's capacity to conduct investigations of applicants seeking certification under the designated criteria; the ability of the certifying entity to collect the requisite data and to establish adequate

protocol to store and exchange said information among the executors of the agreement and to provide adequate security to prevent unauthorized access to information gathered during the certification process; and the degree to which any legal obligations or supplemental requirements unique to the certifying entity exceed the capacity of that entity to conduct certifications.

(c) Any firms certified by organizations or governmental entities determined not to meet the state certification criteria shall not be eligible to participate as certified minority business enterprises in the minority business assistance programs of the state. For a period of 1 year from the effective date of this legislation, the executor of the statewide and interlocal agreement may elect to accept only minority business enterprises certified pursuant to criteria in place at the time the agreement was signed. After the 1-year period, either party may elect to withdraw from the agreement without further notice.

(d) Any organizations or governmental entities determined by the office not to meet the standards of the agreement shall not be eligible to execute the statewide and interlocal agreement as a participating organization until approved by the office.

(e) Any participating program receiving three or more challenges to its certification decisions pursuant to <sup>1</sup>subsection (3) from other organizations that are executors to the statewide and interlocal agreement, shall be subject to a review by the office, as provided in paragraphs (a) and (b), of the organization's capacity to perform under such agreement and in accordance with the core criteria established by the task force. The office shall submit a report to the secretary of the Department of Management Services regarding the results of the review.

(f) The office shall maintain a directory of all executors of the statewide and interlocal agreement. The directory should be communicated to the general public.

(4) A certification may be challenged by any executor to the statewide and interlocal agreement upon the grounds of failure by the certifying organization to adhere to the adopted criteria or to the certifying organization's rules and procedures, or on the grounds of a misrepresentation or fraud by the certified minority business enterprise. The challenge shall proceed according to procedures specified in the agreement.

(5)(a) The secretary of the Department of Management Services shall execute the statewide and interlocal agreement established under s. 287.09431 on behalf of the state. The office shall certify minority business enterprises in accordance with the laws of this state and, by affidavit, shall recertify such minority business enterprises not less than once each year.

(b) The office shall contract with parties to the statewide and interlocal agreement to perform onsite visits associated with state certifications.

(6)(a) The office shall maintain up-to-date records of all certified minority business enterprises, as defined in s. 288.703, and of applications for certification that were denied and shall make this list available to all agencies. The office shall, for statistical purposes, collect and track subgroupings of gender and nationality status for each certified minority business enterprise. Agency spending shall also be tracked for these subgroups. The records may include information about minority business enterprises that provide legal services, auditing services, and health services. Agencies shall use this list in efforts to meet the minority business enterprise procurement goals set forth in <sup>2</sup>s. 289.09451.

(b) The office shall establish and administer a computerized data bank to carry out the requirements of paragraph (a), to be available to all executors of the statewide and interlocal agreement. Data maintained in the data bank shall be sufficient to allow each executor to reasonably monitor certifications it has issued.

(7) The office shall identify minority business enterprises eligible for certification in all areas of state services and commodities purchasing. The office may contract with a private firm or other agency, if necessary, in seeking to identify minority business enterprises for certification. Agencies may request the office to identify certifiable minority business enterprises that are in the business of providing a given service or commodity; the office shall respond to such requests and seek out such certifiable minority business enterprises.

(8) The office shall adopt rules necessary to implement this section.

(9) State agencies shall comply with this act except to the extent that the requirements of this act are in conflict with federal law.

(10) Any transfer of ownership or permanent change in the management and daily operations of a certified minority business enterprise which may affect certification must be reported to the original certifying jurisdiction or entity and to the office within 14 days of the transfer or change taking place. In the event of a transfer of ownership, the transferee seeking to do business with the state as a certified minority business enterprise is responsible for such reporting. In the event of a permanent change in the management and daily operations, owners seeking to do business with the state as a certified minority business enterprise are responsible for reporting such change to the office. Any person violating the provisions of this subsection shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(11) To deter fraud in the program, the Auditor General may review the criteria by which a business became certified as a certified minority business enterprise.

(12) Any executor of the statewide and interlocal agreement may revoke the certification or recertification of a firm doing business as a certified minority business enterprise if the minority business enterprise does not meet the requirements of the jurisdiction or certifying entity that certified or recertified the firm as a certified minority business enterprise, or the requirements of <sup>3</sup>subsection (1), s. 288.703, and any rule of the office or the Department of Management Services or if the business acquired certification or recertification by means of falsely representing any entity as a minority business enterprise for purposes of qualifying for certification or recertification.

(13) Unless permanently revoked, a certified minority business enterprise for which certification or recertification has been revoked may not apply or reapply for certification or recertification for a minimum of 36 months after the date of the notice of revocation.

(14)(a) Except for certification decisions issued by the Office of Supplier Diversity, an executor to the statewide and interlocal agreement shall, in accordance with its rules and procedures:

1. Give reasonable notice to affected persons or parties of its decision to deny certification based on failure to meet eligibility requirements of the statewide and interlocal agreement of s. 287.09431, together with a summary of the grounds therefor.



2. Give affected persons or parties an opportunity, at a convenient time and place, to present to the agency written or oral evidence in opposition to the action or of the executor's refusal to act.

3. Give a written explanation of any subsequent decision of the executor overruling the objections.

(b) An applicant that is denied minority business enterprise certification based on failure to meet eligibility requirements of the statewide and interlocal agreement pursuant to s. 287.09431 may not reapply for certification or recertification until at least 6 months after the date of the notice of the denial of certification or recertification.

(15) The office shall adopt rules in compliance with this part.

**History.**--s. 22, ch. 85-104; s. 3, ch. 88-327; s. 24, ch. 90-268; s. 11, ch. 91-162; s. 244, ch. 91-224; s. 257, ch. 92-279; s. 55, ch. 92-326; ss. 14, 26, ch. 94-322; s. 7, ch. 96-311; s. 25, ch. 96-320; s. 1, ch. 98-295; s. 2, ch. 2000-286.

<sup>1</sup>**Note.**--Redesignated as subsection (4) by s. 2, ch. 2000-286.

<sup>2</sup>**Note.**--Section 289.09451 does not exist; the reference may be intended to refer to s. 287.09451, which relates to minority business enterprise procurement goals.

<sup>3</sup>**Note.**--Redesignated as subsection (2) by s. 2, ch. 2000-286.

**287.09431 Statewide and interlocal agreement on certification of business concerns for the status of minority business enterprise.**--The statewide and interlocal agreement on certification of business concerns for the status of minority business enterprise is hereby enacted and entered into with all jurisdictions or organizations legally joining therein. If, within 2 years from the date that the certification core criteria are approved by the Department of Labor and Employment Security, the agreement included herein is not executed by a majority of Miami-Dade County and municipal governing bodies that administer a minority business assistance program on the effective date of this act, then the Legislature shall review this agreement. It is the intent of the Legislature that if the agreement is not executed by a majority of the requisite governing bodies, then a statewide uniform certification process should be adopted, and that said agreement should be repealed and replaced by a mandatory state government certification process.

### ARTICLE III

#### STATEWIDE AND INTERLOCAL CERTIFICATIONS.--

(1) All awarding organizations shall accept a certification granted by any participating organization which has been approved according to s. 287.0943(3) and has entered into this agreement, as valid status of minority business enterprise.

(2) A participating organization shall certify a business concern that meets the definition of minority business enterprise in this agreement, in accordance with the duly adopted eligibility criteria.

(3) All participating organizations shall issue notice of certification decisions granting or denying certification to all other participating organizations within 14 days of the decision. Such notice may be made through electronic media.

- (4) No certification will be granted without an onsite visit to verify ownership and control of the prospective minority business enterprise, unless verification can be accomplished by other methods of adequate verification or assessment of ownership and control.
- (5) The certification of a minority business enterprise pursuant to the terms of this agreement shall not be suspended, revoked, or otherwise impaired except on any grounds which would be sufficient for revocation or suspension of a certification in the jurisdiction of the participating organization.
- (6) The certification determination of a party may be challenged by any other participating organization by the issuance of a timely written notice by the challenging organization to the certifying organization's determination within 10 days of receiving notice of the certification decision, stating the grounds therefor.
- (7) The sole accepted grounds for challenge shall be the failure of the certifying organization to adhere to the adopted criteria or the certifying organization's rules or procedures, or the perpetuation of a misrepresentation or fraud by the firm.
- (8) The certifying organization shall reexamine its certification determination and submit written notice to the applicant and the challenging organization of its findings within 30 days after the receipt of the notice of challenge.
- (9) If the certification determination is affirmed, the challenging agency may subsequently submit timely written notice to the firm of its intent to revoke certification of the firm.

**Federal Legislation**

**Title XXXIX  
COMMERCIAL RELATIONS  
Chapter 668  
Electronic Commerce  
View Entire Chapter**

**TITLE XXXIX  
COMMERCIAL RELATIONS  
CHAPTER 668  
ELECTRONIC COMMERCE  
PART I  
ELECTRONIC SIGNATURES (ss. 668.001-668.006)  
PART II  
UNIFORM ELECTRONIC TRANSACTION ACT (s. 668.50)**

**PART I  
ELECTRONIC SIGNATURES**

668.001 Short title.

668.002 Legislative intent.

668.003 Definitions.

668.004 Force and effect of electronic signature.

668.006 Control procedures.

668.001 Short title.--This act may be cited as the "Electronic Signature Act of 1996."

History.--s. 1, ch. 96-224.

Note.--Former s. 282.70.

668.002 Legislative intent.--It is the intent of the Legislature that this act:

(1) Facilitate economic development and efficient delivery of government services by means of reliable electronic messages.

(2) Enhance public confidence in the use of electronic signatures.

(3) Minimize the incidence of forged electronic signatures and fraud in electronic commerce.

(4) Foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to writings in any electronic medium.

(5) Assure that proper management oversight and accountability are maintained for agency-conducted electronic commerce.

History.--s. 2, ch. 96-224.

Note.--Former s. 282.71.

668.003 Definitions.--As used in this act:

(1) "Certificate" means a computer-based record which:

(a) Identifies the certification authority.

(b) Identifies the subscriber.

(c) Contains the subscriber's public key.

- (d) Is digitally signed by the certification authority.
- (2) "Certification authority" means a person who issues a certificate.
- (3) "Digital signature" means a type of electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:
  - (a) Whether the transformation was created using the private key that corresponds to the signer's public key.
  - (b) Whether the initial message has been altered since the transformation was made.

A "key pair" is a private key and its corresponding public key in an asymmetric cryptosystem, under which the public key verifies a digital signature the private key creates. An "asymmetric cryptosystem" is an algorithm or series of algorithms which provide a secure key pair.

- (4) "Electronic signature" means any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

History.--s. 4, ch. 96-224.

Note.--Former s. 282.72.

668.004 Force and effect of electronic signature.--Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.

History.--s. 5, ch. 96-224.

Note.--Former s. 282.73.

668.006 Control procedures.--The head of each agency shall be responsible for adopting and implementing control processes and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce.

History.--s. 7, ch. 96-224.

Note.--Former s. 282.75.

## **PART II**

### **UNIFORM ELECTRONIC TRANSACTION ACT**

668.50 Uniform Electronic Transaction Act.

668.50 Uniform Electronic Transaction Act.--

- (1) SHORT TITLE.--This section may be cited as the "Uniform Electronic Transaction Act."

- (2) DEFINITIONS.--As used in this section:

- (a) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under provisions of law otherwise applicable to a particular transaction.
- (b) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

- (c) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (d) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this act and other applicable provisions of law.
- (e) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (f) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (g) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (h) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (i) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of this state, including a county, municipality, or other political subdivision of this state and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
- (j) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or other similar representations of knowledge.
- (k) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
- (l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.
- (m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in s. 119.011(1).
- (n) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.
- (o) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.
- (p) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.

(3) SCOPE.--

- (a) Except as otherwise provided in paragraph (b), this section applies to electronic records and electronic signatures relating to a transaction.
- (b) This section does not apply to a transaction to the extent the transaction is governed by:

1. A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;
2. The Uniform Commercial Code other than ss. 671.107 and 671.206 and chapters 672 and 680;
3. The Uniform Computer Information Transactions Act; or
4. Rules relating to judicial procedure.

(c) This section applies to an electronic record or electronic signature otherwise excluded under paragraph (b) to the extent such record or signature is governed by a provision of law other than those specified in paragraph (b).

(d) A transaction subject to this section is also subject to other applicable provisions of substantive law.

(4) PROSPECTIVE APPLICATION.--This section applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after July 1, 2000.

(5) USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.--

(a) This section does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This section applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this paragraph may not be waived by agreement.

(d) Except as otherwise provided in this section, the effect of any provision of this section may be varied by agreement. The presence in certain provisions of this section of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this section and other applicable provisions of law.

(6) CONSTRUCTION AND APPLICATION.--This section shall be construed and applied to:

(a) Facilitate electronic transactions consistent with other applicable provisions of law.

(b) Be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices.

(c) Effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting similar legislation.

(7) LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.--

(a) A record or signature may not be denied legal effect or enforceability solely because the record or signature is in electronic form.

- (b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in the formation of the contract.
- (c) If a provision of law requires a record to be in writing, an electronic record satisfies such provision.
- (d) If a provision of law requires a signature, an electronic signature satisfies such provision.

(8) PROVISION OF INFORMATION IN WRITING; PRESENTATION OF RECORDS.--

(a) If parties have agreed to conduct a transaction by electronic means and a provision of law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or the sender's information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a provision of law other than this section requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, the following rules apply:

1. The record must be posted or displayed in the manner specified in the other provision of law.
2. Except as otherwise provided in subparagraph (d)2., the record must be sent, communicated, or transmitted by the method specified in the other provision of law.
3. The record must contain the information formatted in the manner specified in the other provision of law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, provided:

1. To the extent a provision of law other than this section requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under paragraph (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement.
2. A requirement under a law other than this section to send, communicate, or transmit a record by first-class mail, postage prepaid, or other regular United States mail, may be varied by agreement to the extent permitted by the other provision of law.

(9) ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.--

(a) An electronic record or electronic signature is attributable to a person if the record or signature was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under paragraph (a) is determined from the context and surrounding

circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

(10) EFFECT OF CHANGE OR ERROR.--If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(a) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

1. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person.

2. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

3. Has not used or received any benefit or value from the consideration, if any, received from the other person.

(c) If paragraphs (a) and (b) do not apply, the change or error has the effect provided by the other provision of law, including the law of mistake, and the parties' contract, if any.

(d) Paragraphs (b) and (c) may not be varied by agreement.

(11) NOTARIZATION AND ACKNOWLEDGMENT.--

(a) If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized by applicable law to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record. Neither a rubber stamp nor an impression type seal is required for an electronic notarization.

(b) A first-time applicant for a notary commission must submit proof that the applicant has, within 1 year prior to the application, completed at least 3 hours of interactive or classroom instruction, including electronic notarization, and covering the duties of the notary public. Courses satisfying this section may be offered by any public or private sector person or entity registered with the Executive Office of the Governor and must include a core curriculum approved by that office.

(12) RETENTION OF ELECTRONIC RECORDS; ORIGINALS.--

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

1. Accurately reflects the information set forth in the record after the record was first generated in final form as an electronic record or otherwise.

2. Remains accessible for later reference.



(b) A requirement to retain a record in accordance with paragraph (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy paragraph (a) by using the services of another person if the requirements of paragraph (a) are satisfied.

(d) If a provision of law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with paragraph (a).

(e) If a provision of law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (a).

(f) A record retained as an electronic record in accordance with paragraph (a) satisfies a provision of law requiring a person to retain a record for evidentiary, audit, or similar purposes, unless a provision of law enacted after July 1, 2000, specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

(13) **ADMISSIBILITY IN EVIDENCE.**--In a proceeding, evidence of a record or signature may not be excluded solely because the record or signature is in electronic form.

(14) **AUTOMATED TRANSACTIONS.**--In an automated transaction, the following rules apply:

(a) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(b) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(c) The terms of the contract are determined by the substantive law applicable to the contract.

(15) **TIME AND PLACE OF SENDING AND RECEIVING.**--

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when the record:

1. Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.

2. Is in a form capable of being processed by that system.

3. Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when the record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and is in a form capable of being processed by that system.

(c) Paragraph (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under paragraph (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this paragraph, the following rules apply:

1. If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

2. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under paragraph (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in paragraph (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under paragraph (a), or purportedly received under paragraph (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable provisions of law. Except to the extent permitted by the other provisions of law, the requirements of this paragraph may not be varied by agreement.

(h) An automated transaction does not establish the acceptability of an electronic record for recording purposes.

#### (16) TRANSFERABLE RECORDS.--

(a) For purposes of this paragraph, "transferable record" means an electronic record that:

1. Would be a note under chapter 673, or a document under chapter 677, if the electronic record were in writing.

2. The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies paragraph (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

1. A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subparagraphs 4., 5., and 6., unalterable.

2. The authoritative copy identifies the person asserting control as the person to which the transferable record was issued or, if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.
  3. The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian.
  4. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control.
  5. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.
  6. Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.
- (d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in s. 671.201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under s. 673.3021, s. 677.501, or s. 679.308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this paragraph.
- (e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.
- (f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(17) CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.--Each governmental agency shall determine whether, and the extent to which, such agency will create and retain electronic records and convert written records to electronic records.

(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.--

(a) Except as otherwise provided in paragraph (12)(f), each governmental agency shall determine whether, and the extent to which, such agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the state technology office, in consultation with the governmental agency, giving due consideration to security, may specify:

1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in paragraph (12)(f), this section does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

(d) Service charges and fees otherwise established by law applicable to the filing of nonelectronic records shall apply in kind to the filing of electronic records.

(19) INTEROPERABILITY.--The governmental agency which adopts standards pursuant to subsection (18) may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the Federal Government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

(20) SEVERABILITY.--If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

History.--s. 1, ch. 2000-164.

One Hundred Sixth Congress  
of the  
United States of America  
AT THE SECOND SESSION  
Begun and held at the City of Washington on Monday,  
the twenty-fourth day of January, two thousand  
An Act

To facilitate the use of electronic records and signatures in interstate or foreign commerce.

**Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,**

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Electronic Signatures in Global and National Commerce Act'.

**TITLE I--ELECTRONIC RECORDS AND SIGNATURES IN COMMERCE**

**SEC. 101. GENERAL RULE OF VALIDITY.**

(a) IN GENERAL- Notwithstanding any statute, regulation, or other rule of law (other than this title and title II), with respect to any transaction in or affecting interstate or foreign commerce--

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) PRESERVATION OF RIGHTS AND OBLIGATIONS- This title does not--

(1) limit, alter, or otherwise affect any requirement imposed by a statute, regulation, or rule of law relating to the rights and obligations of persons under such statute, regulation, or rule of law other than a requirement that contracts or other records be written, signed, or in nonelectronic form; or

(2) require any person to agree to use or accept electronic records or electronic signatures, other than a governmental agency with respect to a record other than a contract to which it is a party.

(c) CONSUMER DISCLOSURES-

(1) CONSENT TO ELECTRONIC RECORDS- Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that such information be in writing if--

(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;

(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement--

(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and (II) the right of the consumer to withdraw the consent to have the record provided

or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal;

(ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;

(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and

(iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy;

(C) the consumer--

(i) prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

(ii) consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and

(D) after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record--

(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and

(ii) again complies with subparagraph (C).

(2) OTHER RIGHTS-

(A) PRESERVATION OF CONSUMER PROTECTIONS- Nothing in this title affects the content or timing of any disclosure or other record required to be provided or made available to any consumer under any statute, regulation, or other rule of law.

(B) VERIFICATION OR ACKNOWLEDGMENT- If a law that was enacted prior to this Act expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).

(3) EFFECT OF FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT- The legal effectiveness, validity, or enforceability of any contract executed by a consumer shall not be denied

solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).

(4) PROSPECTIVE EFFECT- Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.

(5) PRIOR CONSENT- This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this title to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.

(6) ORAL COMMUNICATIONS- An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.

(d) RETENTION OF CONTRACTS AND RECORDS-

(1) ACCURACY AND ACCESSIBILITY- If a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be retained, that requirement is met by retaining an electronic record of the information in the contract or other record that--

(A) accurately reflects the information set forth in the contract or other record; and

(B) remains accessible to all persons who are entitled to access by statute, regulation, or rule of law, for the period required by such statute, regulation, or rule of law, in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.

(2) EXCEPTION- A requirement to retain a contract or other record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract or other record to be sent, communicated, or received.

(3) ORIGINALS- If a statute, regulation, or other rule of law requires a contract or other record relating to a transaction in or affecting interstate or foreign commerce to be provided, available, or retained in its original form, or provides consequences if the contract or other record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS- If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (1).

(e) ACCURACY AND ABILITY TO RETAIN CONTRACTS AND OTHER RECORDS- Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be in writing, the legal effect, validity, or enforceability of an electronic record of such contract or other record may be denied if such electronic record is not in a form that is capable of being retained and accurately reproduced for

later reference by all parties or persons who are entitled to retain the contract or other record.

(f) PROXIMITY- Nothing in this title affects the proximity required by any statute, regulation, or other rule of law with respect to any warning, notice, disclosure, or other record required to be posted, displayed, or publicly affixed.

(g) NOTARIZATION AND ACKNOWLEDGMENT- If a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.

(h) ELECTRONIC AGENTS- A contract or other record relating to a transaction in or affecting interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because its formation, creation, or delivery involved the action of one or more electronic agents so long as the action of any such electronic agent is legally attributable to the person to be bound.

(i) INSURANCE- It is the specific intent of the Congress that this title and title II apply to the business of insurance.

(j) INSURANCE AGENTS AND BROKERS- An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature may not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if--

- (1) the agent or broker has not engaged in negligent, reckless, or intentional tortious conduct;
- (2) the agent or broker was not involved in the development or establishment of such electronic procedures; and
- (3) the agent or broker did not deviate from such procedures.

## **SEC. 102. EXEMPTION TO PREEMPTION.**

(a) IN GENERAL- A State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 with respect to State law only if such statute, regulation, or rule of law--

(1) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as approved and recommended for enactment in all the States by the National Conference of Commissioners on Uniform State Laws in 1999, except that any exception to the scope of such Act enacted by a State under section 3(b)(4) of such Act shall be preempted to the extent such exception is inconsistent with this title or title II, or would not be permitted under paragraph (2)(A)(ii) of this subsection; or

(2)(A) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts or other records, if--

(i) such alternative procedures or requirements are consistent with this title and title II; and

(ii) such alternative procedures or requirements do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; and



(B) if enacted or adopted after the date of the enactment of this Act, makes specific reference to this Act.

(b) EXCEPTIONS FOR ACTIONS BY STATES AS MARKET PARTICIPANTS- Subsection (a)(2)(A)(ii) shall not apply to the statutes, regulations, or other rules of law governing procurement by any State, or any agency or instrumentality thereof.

(c) PREVENTION OF CIRCUMVENTION- Subsection (a) does not permit a State to circumvent this title or title II through the imposition of nonelectronic delivery methods under section 8(b)(2) of the Uniform Electronic Transactions Act.

### **SEC. 103. SPECIFIC EXCEPTIONS.**

(a) EXCEPTED REQUIREMENTS- The provisions of section 101 shall not apply to a contract or other record to the extent it is governed by--

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a State statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law; or

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A.

(b) ADDITIONAL EXCEPTIONS- The provisions of section 101 shall not apply to--

(1) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;

(2) any notice of--

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or

(D) recall of a product, or material failure of a product, that risks endangering health or safety; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(c) REVIEW OF EXCEPTIONS-

(1) EVALUATION REQUIRED- The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall review the operation of the exceptions in subsections (a) and (b) to evaluate, over a period of 3 years, whether such exceptions continue to be necessary for the protection of consumers. Within 3 years after the date of enactment of this Act, the Assistant Secretary shall submit a report to the Congress on the results of such evaluation.

(2) DETERMINATIONS- If a Federal regulatory agency, with respect to matter within its jurisdiction, determines after notice and an opportunity for public comment, and publishes a finding, that one or more such exceptions are no longer necessary for the protection of consumers and eliminating such exceptions will not increase the material risk of harm to consumers, such agency may extend the application of section 101 to the exceptions identified in such finding.

## **SEC. 104. APPLICABILITY TO FEDERAL AND STATE GOVERNMENTS.**

(a) **FILING AND ACCESS REQUIREMENTS-** Subject to subsection (c)(2), nothing in this title limits or supersedes any requirement by a Federal regulatory agency, self-regulatory organization, or State regulatory agency that records be filed with such agency or organization in accordance with specified standards or formats.

(b) **PRESERVATION OF EXISTING RULEMAKING AUTHORITY-**

(1) **USE OF AUTHORITY TO INTERPRET-** Subject to paragraph (2) and subsection (c), a Federal regulatory agency or State regulatory agency that is responsible for rulemaking under any other statute may interpret section 101 with respect to such statute through--

(A) the issuance of regulations pursuant to a statute; or

(B) to the extent such agency is authorized by statute to issue orders or guidance, the issuance of orders or guidance of general applicability that are publicly available and published (in the Federal Register in the case of an order or guidance issued by a Federal regulatory agency).

This paragraph does not grant any Federal regulatory agency or State regulatory agency authority to issue regulations, orders, or guidance pursuant to any statute that does not authorize such issuance.

(2) **LIMITATIONS ON INTERPRETATION AUTHORITY-** Notwithstanding paragraph (1), a Federal regulatory agency shall not adopt any regulation, order, or guidance described in paragraph (1), and a State regulatory agency is preempted by section 101 from adopting any regulation, order, or guidance described in paragraph (1), unless--

(A) such regulation, order, or guidance is consistent with section 101;

(B) such regulation, order, or guidance does not add to the requirements of such section; and

(C) such agency finds, in connection with the issuance of such regulation, order, or guidance, that--

(i) there is a substantial justification for the regulation, order, or guidance;

(ii) the methods selected to carry out that purpose--

(I) are substantially equivalent to the requirements imposed on records that are not electronic records; and

(II) will not impose unreasonable costs on the acceptance and use of electronic records; and

(iii) the methods selected to carry out that purpose do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures.

(3) **PERFORMANCE STANDARDS-**

(A) **ACCURACY, RECORD INTEGRITY, ACCESSIBILITY-** Notwithstanding paragraph (2)(C)(iii), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to specify performance standards to assure accuracy, record integrity, and accessibility of records that are required to be retained. Such performance standards may be specified in a manner that imposes a requirement in violation of paragraph (2)(C)(iii) if the requirement (i) serves an important governmental objective; and (ii) is substantially related to the achievement of that objective. Nothing in this paragraph

shall be construed to grant any Federal regulatory agency or State regulatory agency authority to require use of a particular type of software or hardware in order to comply with section 101(d).

(B) PAPER OR PRINTED FORM- Notwithstanding subsection (c)(1), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to require retention of a record in a tangible printed or paper form if--

(i) there is a compelling governmental interest relating to law enforcement or national security for imposing such requirement; and

(ii) imposing such requirement is essential to attaining such interest.

(4) EXCEPTIONS FOR ACTIONS BY GOVERNMENT AS MARKET PARTICIPANT- Paragraph (2)(C)(iii) shall not apply to the statutes, regulations, or other rules of law governing procurement by the Federal or any State government, or any agency or instrumentality thereof.

(c) ADDITIONAL LIMITATIONS-

(1) REIMPOSING PAPER PROHIBITED- Nothing in subsection (b) (other than paragraph (3)(B) thereof) shall be construed to grant any Federal regulatory agency or State regulatory agency authority to impose or reimpose any requirement that a record be in a tangible printed or paper form.

(2) CONTINUING OBLIGATION UNDER GOVERNMENT PAPERWORK ELIMINATION ACT- Nothing in subsection (a) or (b) relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105-277).

(d) AUTHORITY TO EXEMPT FROM CONSENT PROVISION-

(1) IN GENERAL- A Federal regulatory agency may, with respect to matter within its jurisdiction, by regulation or order issued after notice and an opportunity for public comment, exempt without condition a specified category or type of record from the requirements relating to consent in section 101(c) if such exemption is necessary to eliminate a substantial burden on electronic commerce and will not increase the material risk of harm to consumers.

(2) PROSPECTUSES- Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue a regulation or order pursuant to paragraph (1) exempting from section 101(c) any records that are required to be provided in order to allow advertising, sales literature, or other information concerning a security issued by an investment company that is registered under the Investment Company Act of 1940, or concerning the issuer thereof, to be excluded from the definition of a prospectus under section 2(a)(10)(A) of the Securities Act of 1933.

(e) ELECTRONIC LETTERS OF AGENCY- The Federal Communications Commission shall not hold any contract for telecommunications service or letter of agency for a preferred carrier change, that otherwise complies with the Commission's rules, to be legally ineffective, invalid, or unenforceable solely because an electronic record or electronic signature was used in its formation or authorization.

## **SEC. 105. STUDIES.**

(a) DELIVERY- Within 12 months after the date of the enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express

mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 12-month period.

(b) **STUDY OF ELECTRONIC CONSENT-** Within 12 months after the date of the enactment of this Act, the Secretary of Commerce and the Federal Trade Commission shall submit a report to the Congress evaluating any benefits provided to consumers by the procedure required by section 101(c)(1)(C)(ii); any burdens imposed on electronic commerce by that provision; whether the benefits outweigh the burdens; whether the absence of the procedure required by section 101(c)(1)(C)(ii) would increase the incidence of fraud directed against consumers; and suggesting any revisions to the provision deemed appropriate by the Secretary and the Commission. In conducting this evaluation, the Secretary and the Commission shall solicit comment from the general public, consumer representatives, and electronic commerce businesses.

## **SEC. 106. DEFINITIONS.**

For purposes of this title:

(1) **CONSUMER-** The term `consumer' means an individual who obtains, through a transaction, products or services which are used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(2) **ELECTRONIC-** The term `electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) **ELECTRONIC AGENT-** The term `electronic agent' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part without review or action by an individual at the time of the action or response.

(4) **ELECTRONIC RECORD-** The term `electronic record' means a contract or other record created, generated, sent, communicated, received, or stored by electronic means.

(5) **ELECTRONIC SIGNATURE-** The term `electronic signature' means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

(6) **FEDERAL REGULATORY AGENCY-** The term `Federal regulatory agency' means an agency, as that term is defined in section 552(f) of title 5, United States Code.

(7) **INFORMATION-** The term `information' means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(8) **PERSON-** The term `person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(9) **RECORD-** The term `record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) **REQUIREMENT-** The term `requirement' includes a prohibition.

(11) **SELF-REGULATORY ORGANIZATION-** The term `self-regulatory organization' means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory

agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

(12) STATE- The term 'State' includes the District of Columbia and the territories and possessions of the United States.

(13) TRANSACTION- The term 'transaction' means an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including any of the following types of conduct--

(A) the sale, lease, exchange, licensing, or other disposition of (i) personal property, including goods and intangibles, (ii) services, and (iii) any combination thereof; and

(B) the sale, lease, exchange, or other disposition of any interest in real property, or any combination thereof.

## **SEC. 107. EFFECTIVE DATE.**

(a) IN GENERAL- Except as provided in subsection (b), this title shall be effective on October 1, 2000.

(b) EXCEPTIONS-

(1) RECORD RETENTION-

(A) IN GENERAL- Subject to subparagraph (B), this title shall be effective on March 1, 2001, with respect to a requirement that a record be retained imposed by--

(i) a Federal statute, regulation, or other rule of law, or

(ii) a State statute, regulation, or other rule of law administered or promulgated by a State regulatory agency.

(B) DELAYED EFFECT FOR PENDING RULEMAKINGS- If on March 1, 2001, a Federal regulatory agency or State regulatory agency has announced, proposed, or initiated, but not completed, a rulemaking proceeding to prescribe a regulation under section 104(b)(3) with respect to a requirement described in subparagraph (A), this title shall be effective on June 1, 2001, with respect to such requirement.

(2) CERTAIN GUARANTEED AND INSURED LOANS- With regard to any transaction involving a loan guarantee or loan guarantee commitment (as those terms are defined in section 502 of the Federal Credit Reform Act of 1990), or involving a program listed in the Federal Credit Supplement, Budget of the United States, FY 2001, this title applies only to such transactions entered into, and to any loan or mortgage made, insured, or guaranteed by the United States Government thereunder, on and after one year after the date of enactment of this Act.

(3) STUDENT LOANS- With respect to any records that are provided or made available to a consumer pursuant to an application for a loan, or a loan made, pursuant to title IV of the Higher Education Act of 1965, section 101(c) of this Act shall not apply until the earlier of--

(A) such time as the Secretary of Education publishes revised promissory notes under section 432(m) of the Higher Education Act of 1965; or

(B) one year after the date of enactment of this Act.

## TITLE II--TRANSFERABLE RECORDS

### SEC. 201. TRANSFERABLE RECORDS.

(a) DEFINITIONS- For purposes of this section:

(1) TRANSFERABLE RECORD- The term 'transferable record' means an electronic record that--

(A) would be a note under Article 3 of the Uniform Commercial Code if the electronic record were in writing;

(B) the issuer of the electronic record expressly has agreed is a transferable record; and

(C) relates to a loan secured by real property.

A transferable record may be executed using an electronic signature.

(2) OTHER DEFINITIONS- The terms 'electronic record', 'electronic signature', and 'person' have the same meanings provided in section 106 of this Act.

(b) CONTROL- A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) CONDITIONS- A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that--

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as--

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) STATUS AS HOLDER- Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1-201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 3-302(a), 9-308, or revised section 9-330 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) OBLIGOR RIGHTS- Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) **PROOF OF CONTROL-** If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(g) **UCC REFERENCES-** For purposes of this subsection, all references to the Uniform Commercial Code are to the Uniform Commercial Code as in effect in the jurisdiction the law of which governs the transferable record.

## **SEC. 202. EFFECTIVE DATE.**

This title shall be effective 90 days after the date of enactment of this Act.

### **TITLE III--PROMOTION OF INTERNATIONAL ELECTRONIC COMMERCE**

#### **SEC. 301. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.**

##### **(a) PROMOTION OF ELECTRONIC SIGNATURES-**

(1) **REQUIRED ACTIONS-** The Secretary of Commerce shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, for the purpose of facilitating the development of interstate and foreign commerce.

(2) **PRINCIPLES-** The principles specified in this paragraph are the following:

(A) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(B) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(C) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(D) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

(b) **CONSULTATION-** In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(c) **DEFINITIONS-** As used in this section, the terms 'electronic record' and 'electronic signature' have the same meanings provided in section 106 of this Act.

### **TITLE IV--COMMISSION ON ONLINE CHILD PROTECTION**

#### **SEC. 401. AUTHORITY TO ACCEPT GIFTS.**

Section 1405 of the Child Online Protection Act (47 U.S.C. 231 note) is amended by inserting after subsection (g) the following new subsection:

`(h) GIFTS, BEQUESTS, AND DEVISES- The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real (including the use of office space) and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts or grants not used at the termination of the Commission shall be returned to the donor or grantee.'.

Speaker of the House of Representatives.

Vice President of the United States and  
President of the Senate.

**END**



## Appendix D – List of e-procurement Web Pages

State	Web Address	Comments
GSA (Federal)	<a href="http://www.fedbizopps.gov">http://www.fedbizopps.gov</a>	newly interactive
NASA	<a href="http://naistest.msfc.nasa.gov/cgi-bin/VPO/vpo_matrix.cgi">http://naistest.msfc.nasa.gov/cgi-bin/VPO/vpo_matrix.cgi</a>	Phase I complete
1 Alabama	<a href="http://www.purchasing.state.al.us/siteindex.htm">http://www.purchasing.state.al.us/siteindex.htm</a>	
2 Alaska	<a href="http://www.state.ak.us/local/akpages/ADMIN/dgs/purchasing/">http://www.state.ak.us/local/akpages/ADMIN/dgs/purchasing/</a>	
3 Arizona	<a href="http://sporas.ad.state.az.us/">http://sporas.ad.state.az.us/</a>	
4 Arkansas	<a href="http://www.state.ar.us/dfa/purchasing/index.html">http://www.state.ar.us/dfa/purchasing/index.html</a>	
5 California	<a href="http://www.pd.dgs.ca.gov/main/main.asp">http://www.pd.dgs.ca.gov/main/main.asp</a>	
San Diego	<a href="http://www.sannet.gov/directories/business.shtml">http://www.sannet.gov/directories/business.shtml</a>	
Orange County	<a href="http://www.oc.ca.gov/olb/Glue/MainMenu.asp">http://www.oc.ca.gov/olb/Glue/MainMenu.asp</a>	
San Francisco	<a href="http://www.ci.sf.ca.us/purchase/about.htm">http://www.ci.sf.ca.us/purchase/about.htm</a>	
6 Colorado	<a href="http://www.gssa.state.co.us/purchasi.nsf/informational+pages/purchasing+home+page?opendocument">http://www.gssa.state.co.us/purchasi.nsf/informational+pages/purchasing+home+page?opendocument</a>	
7 Connecticut	<a href="http://www.das.state.ct.us/busopp.htm">http://www.das.state.ct.us/busopp.htm</a>	
8 Delaware	<a href="http://www.state.de.us/purchase/html/contracting_section.htm">http://www.state.de.us/purchase/html/contracting_section.htm</a>	
9 Florida	<a href="http://fcf.state.fl.us/owa_spurs/owa/spurs_www.main_menu_form">http://fcf.state.fl.us/owa_spurs/owa/spurs_www.main_menu_form</a>	
Hillsborough Cnty	<a href="http://www.hillsboroughcounty.org/purchasing/home.html">http://www.hillsboroughcounty.org/purchasing/home.html</a>	
Miami-Dade Cnty	<a href="http://www.co.miami-dade.fl.us/gsaproc/">http://www.co.miami-dade.fl.us/gsaproc/</a>	
Orange County	<a href="http://www.onetgov.net/Services/">http://www.onetgov.net/Services/</a>	
10 Georgia	<a href="http://www.doas.state.ga.us/">http://www.doas.state.ga.us/</a>	
Atlanta	<a href="http://www.ci.atlanta.ga.us/dept/admn/purchase/purchase.htm">http://www.ci.atlanta.ga.us/dept/admn/purchase/purchase.htm</a>	
11 Hawaii	<a href="http://www.ehawaii.gov.org/working/html/doing_business.html">http://www.ehawaii.gov.org/working/html/doing_business.html</a>	
12 Idaho	<a href="http://www2.state.id.us/adm/purchasing/default.htm">http://www2.state.id.us/adm/purchasing/default.htm</a>	joint with ME, TX
13 Illinois	<a href="http://www.state.il.us/cms/purchase/default.htm">http://www.state.il.us/cms/purchase/default.htm</a>	
14 Indiana	<a href="http://www.state.in.us/idoa/proc/">http://www.state.in.us/idoa/proc/</a>	
15 Iowa	<a href="http://www.state.ia.us/government/dgs/csap/purhome/business.htm">http://www.state.ia.us/government/dgs/csap/purhome/business.htm</a>	
16 Kansas	<a href="http://da.state.ks.us/purch/">http://da.state.ks.us/purch/</a>	
Wichita	<a href="http://www.wichitagov.org/ep/">http://www.wichitagov.org/ep/</a>	
17 Kentucky	<a href="https://ky-purchases.com/servlet/KYECServlet?object=ECOMMERCE&amp;action=showMainPage">https://ky-purchases.com/servlet/KYECServlet?object=ECOMMERCE&amp;action=showMainPage</a>	
18 Louisiana	<a href="http://www.state.la.us/state/business.htm">http://www.state.la.us/state/business.htm</a>	
19 Maine	<a href="http://www.state.me.us/egov/ebusiness.html">http://www.state.me.us/egov/ebusiness.html</a>	joint with ID, TX
20 Maryland	<a href="http://www.marylandb2b.com/">http://www.marylandb2b.com/</a>	
Harford County	<a href="http://www.co.ha.md.us/procurement/index.html">http://www.co.ha.md.us/procurement/index.html</a>	
21 Massachusetts	<a href="http://www.emall.isa.us/">http://www.emall.isa.us/</a>	pilot completed
22 Michigan	<a href="http://www.co.ha.md.us/procurement/index.html">http://www.co.ha.md.us/procurement/index.html</a>	
23 Minnesota	<a href="http://www.mmd.admin.state.mn.us/solicitations.htm">http://www.mmd.admin.state.mn.us/solicitations.htm</a>	
24 Mississippi	<a href="http://www.mmrs.state.ms.us/Purchasing/ms_pur.htm">http://www.mmrs.state.ms.us/Purchasing/ms_pur.htm</a>	
25 Missouri	<a href="http://www.oa.state.mo.us/purch/">http://www.oa.state.mo.us/purch/</a>	
26 Montana	<a href="http://www.state.mt.us/doa/ppd/index.htm">http://www.state.mt.us/doa/ppd/index.htm</a>	
27 Nebraska	<a href="http://www.das.state.ne.us/materiel/">http://www.das.state.ne.us/materiel/</a>	
28 Nevada	<a href="http://www.state.nv.us/purchasing/site_map.htm">http://www.state.nv.us/purchasing/site_map.htm</a>	
29 New Hampshire	<a href="http://www.state.nh.us/das/purchasing/index.html">http://www.state.nh.us/das/purchasing/index.html</a>	
30 New Jersey	<a href="http://www.state.nj.us/brdoing.html">http://www.state.nj.us/brdoing.html</a>	
31 New Mexico	<a href="http://www.state.nm.us/spd/spd.html">http://www.state.nm.us/spd/spd.html</a>	

32	New York	<a href="http://www.ogs.state.ny.us/purchase/default.asp">http://www.ogs.state.ny.us/purchase/default.asp</a>	
	NYC	<a href="http://www.ci.nyc.ny.us/html/business/home.html">http://www.ci.nyc.ny.us/html/business/home.html</a>	
33	North Carolina	<a href="http://www.ips.state.nc.us/ips/pubmain.asp">http://www.ips.state.nc.us/ips/pubmain.asp</a>	
34	North Dakota	<a href="http://www.state.nd.us/centerv/purchase/default.html">http://www.state.nd.us/centerv/purchase/default.html</a>	
35	Ohio	<a href="http://www.state.oh.us/ohio/procurement.htm">http://www.state.oh.us/ohio/procurement.htm</a>	
36	Oklahoma	<a href="http://www.dcs.state.ok.us/OKDCS.NSF/htmlmedia/central_purchasing.html">http://www.dcs.state.ok.us/OKDCS.NSF/htmlmedia/central_purchasing.html</a>	
37	Oregon	<a href="http://tpps.das.state.or.us/purchasing/">http://tpps.das.state.or.us/purchasing/</a>	
38	Pennsylvania	<a href="http://www.dgs.state.pa.us/comod/main.htm">http://www.dgs.state.pa.us/comod/main.htm</a>	
39	Rhode Island	<a href="http://www.purchasing.state.ri.us/home.html">http://www.purchasing.state.ri.us/home.html</a>	
40	South Carolina	<a href="http://www.dnr.state.sc.us/admin/procure/welcome.html">http://www.dnr.state.sc.us/admin/procure/welcome.html</a>	
41	South Dakota	<a href="http://www.state.sd.us/boa/pp.htm">http://www.state.sd.us/boa/pp.htm</a>	
42	Tennessee	<a href="http://www.state.tn.us/generalserv/purchasing/dobus.htm">http://www.state.tn.us/generalserv/purchasing/dobus.htm</a>	
43	Texas	<a href="http://www.marketplace.state.tx.us/1380/sagency.cfm">http://www.marketplace.state.tx.us/1380/sagency.cfm</a>	joint with ID, ME
44	Utah	<a href="http://www.purchasing.state.ut.us/">http://www.purchasing.state.ut.us/</a>	
45	Vermont	<a href="http://www.dca.state.vt.us/dcabad/bidbegingr.htm">http://www.dca.state.vt.us/dcabad/bidbegingr.htm</a>	
46	Virginia	<a href="http://www.dgs.state.va.us/dps/">http://www.dgs.state.va.us/dps/</a>	
	Richmond	<a href="http://www.ci.richmond.va.us/98framebid.htm">http://www.ci.richmond.va.us/98framebid.htm</a>	
47	Washington	<a href="http://www.wa.gov/DIS/DBWW/">http://www.wa.gov/DIS/DBWW/</a>	biggest pilot
	Seattle	<a href="http://www.cityofseattle.net/html/business/contracting.htm">http://www.cityofseattle.net/html/business/contracting.htm</a>	
48	West Virginia	<a href="http://www.state.wv.us/admin/purchase/">http://www.state.wv.us/admin/purchase/</a>	
49	Wisconsin	<a href="http://vendornet.state.wi.us/vendornet/">http://vendornet.state.wi.us/vendornet/</a>	
50	Wyoming	<a href="http://www.state.wy.us/ai/gen_serv/procurement.html">http://www.state.wy.us/ai/gen_serv/procurement.html</a>	

## **Appendix E - Criteria for Selecting e-procurement Vendors**

### **Criteria for Selecting e-procurement Vendors<sup>1</sup>**

#### **Definitions**

##### **Functions**

Functions are capabilities of the e-procurement product that permit enterprises to aggregate disparate sources of supplier information into one consolidated, buyer-managed view as well as to facilitate the review and acquisition of goods. In addition, functions may enable Miami-Dade County to better understand organizational procurement patterns; this knowledge allows for more-effective price negotiations with suppliers. Miami-Dade County should gauge key functional areas, including catalogs, shopping baskets, product database, data translation, shipping and handling, and analysis capabilities.

Miami-Dade County should pay particular attention to the functions of e-procurement systems added to enterprise applications. Miami-Dade County should determine whether the new e-procurement system has well delineated functions that do not replicate services already provided, or whether it will permit a wide variety of other vendors' applications to share process and transaction data with it. For example, if an enterprise wants to buy products or services via the Web, some of the functions that the e-procurement system will need include a catalog system, shopping cart, financial transaction handling and workflow. However, the application functions of the internal systems that handle product data management, supplier management, inventory and payments will also need to be available to the e-procurement system. Therefore, the *entire* e-procurement system will include functions contained in several vendors' systems, some of which may not have been designed to handle each other's transactions and forms of information exchange. In this case, the enterprise will need to adapt its enterprise application system for e-procurement. The newly acquired e-procurement applications will need to provide the transactions to trigger functions in the ADPICS system and accept the transactions from that processing.

##### **Technical Architecture**

Technical architecture means the overall design of the business-to-business e-procurement software and the means by which the components of the software integrate and interact with each other and with other application systems. This criterion encompasses the portability and interoperability of the e-procurement system, the quality of the graphical user interfaces, the scalability of products and the software's international support. Technical architecture provides a framework for Miami-Dade County to determine the technological requirements for e-procurement within present technical environments. Architecture also helps reveal additional product purchases or how much customization Miami-Dade County's existing architecture will need to implement the software effectively. Miami-Dade County should examine the following key technical areas: the environment, scalability, integration and development capabilities.

e-procurement systems' architecture has the following two areas of particular vulnerability:

*Interoperability and Integration:* An e-procurement system must have the interfaces needed to link to internal applications such as ADPICS and other legacy systems. The e-procurement application will need to support SAP's Remote Function Calls and Business Application Programming Interfaces. Externally, the e-procurement application system will need to do the following:

- Be accessible from the Internet
- Present data via the Web
- Interface with Internet-based e-mail
- Support XML and electronic data interchange
- Retrieve addresses from a directory
- Support Secure Sockets Layer or Secure Electronic Transactions

*Internal and External Perspectives:* A vendor's applications must provide information to manage a business process that spans departments as well as to create appropriate external views of internal data and internal views of external data. The e-procurement system must support a combination of internal buyer-managed content, external supplier-managed content and network-managed content.

## **Cost**

Cost includes the typical costs associated with purchasing and implementing an e-procurement solution - and incorporating it into an enterprise's technical environment - in short, the software's total cost of ownership. Besides evaluating acquisition and installation costs, Miami-Dade County should factor in the average post-acquisition costs associated with deploying an e-procurement system from installation to when the enterprise achieves its ROI. e-procurement acquisitions should justify their costs within two years.

Note that many enterprises take into account only the initial acquisition costs of e-procurement software. However, ongoing development and support efforts hide additional costs. Moreover, depending on the suite of tools and the scope of the implementation, the enterprise can often incur significant costs in developing the expertise necessary to deploy, exploit and manage an e-procurement solution fully. Therefore, Miami-Dade County should examine initial as well as ongoing costs associated with implementing a specific e-procurement solution. (Again, other implementation costs exceed licensing fees by at least five times, and large enterprises will often take more than two years to achieve ROI).

## **Service and Support**

Service and support differentiate e-procurement vendors and should help the enterprise assess the potential success of its business relationship with the vendor. Miami-Dade County must ensure that they can efficiently and effectively incorporate and use e-procurement packages. Such efforts require that vendors involved in implementation demonstrate consulting expertise, the ability to resolve problems and the skill to transfer knowledge - all critical to the successful exploitation of the e-procurement solution. The more a vendor facilitates service relationships with its customers, the greater the enterprise's level of satisfaction and the greater the chance that a business relationship with the vendor will succeed in the long term. Such a vendor will also more likely succeed in the marketplace in general. Miami-Dade

County should judge the professional and support services provided by the e-procurement vendors and their partners.

### **Viability**

Although a vendor may have advanced products and high service capabilities, Miami-Dade County must judge whether the vendor can sustain these standards. Miami-Dade must understand the financial health and market position of the vendors they will consider in their evaluation. This knowledge will help them gauge whether a vendor will become a leader or a potential acquisition target - or fail outright and exit the market. Failure and acquisition could have far-reaching ramifications and burden the enterprise with substantially increased maintenance costs or even the need to revisit the entire procurement decision. Thus, Miami-Dade County should consider vendors' viability in finances, organization and the market.

### **Vision**

The strategic nature of IT selection obliges enterprises to examine vendors' stated and realized development plans to better understand the fit between a potential vendor and the enterprise's long-term objectives. This analysis will help determine whether a vendor is positioned to execute its strategic plans and to fulfill the enterprise's future objectives (e.g., the evolution of its business requirements) during the next two to five years. For example, a vendor that focuses primarily on earnings per share might not invest enough in its people or research and development, may charge too much, and may not take enough quality measures. To judge vendors' vision, Miami-Dade County should focus on the following questions:

- Does the vendor have a credible vision or strategic plan?
- Is the vendor's vision in line with industry and sector trends?
- Does this vision include strategies appropriate for the particular market sector?

### **What Differentiates e-procurement Vendors**

In general, e-procurement application vendors focus on automating the purchase of non-direct goods, especially low-value items purchased by many users, and the software offered by most vendors supports the same core set of functions. All products enable users to find an item in a catalog, create a requisition, have the order requisition routed for approval, create and transmit the order to vendors, and (to varying degrees) help to automate the payment and invoicing process. One of the most critical elements is the degree to which these applications support multiple modes of catalog management.

An e-procurement system should enable buying Miami-Dade County to support distributed or virtual catalogs by combining three models of content management: buyer-managed, supplier-managed and network-managed content.

Buyer-managed catalogs allow buyers to store catalog data on their own premises and to maintain it accurately by automated updates from suppliers.

Support for supplier-managed catalogs permits buyers to connect directly to supplier sites or their intermediaries (e.g., e-markets) and to view real-time, contract-specific catalogs. Such integration typically relies on XML and its several competing standards efforts.

Network-managed models allow buyers to access catalogs aggregated from many suppliers by some intermediary. This approach has become a critical success factor for e-procurement vendors, which all work on aggregating large numbers of buyers and sellers in Web-based e-markets.

Vendors also provide functions to load, manage and scale user profiles to help automate the process of purchase approval. Exchange of user profile information with corporate human-resources systems eases the process of adding and maintaining user profiles (e.g., approved spending limits). Group (or role-based) administration allows for more-flexible business rules, and non-IS professionals can often manage them. Ease of use is critical in enabling users to help boost the speed of deployment and in helping to curb off-contract or maverick buying. These applications can also allow users to check order status, maintain lists of frequently purchased items, and conduct other activities - e.g., submitting requests for purchase of items not found in product catalogs.

Other differentiators include the e-procurement application's ability to support changes in the buying process, especially because enterprises often re-engineer processes (as well as install software) to maximize ROI. Again, whether non-IS professionals can use the application (via visual tool configurators) is important. The applications' reporting capabilities can also differentiate between them since enterprises interested in automating procurement seek the benefit of better understanding their users' behavior, relationships with vendors, vendor performance and off-contract spending.

<sup>1</sup>Gartner Strategic Analysis Report, February 9, 2000.

## Appendix F – Request for Information (RFI) #7

MIAMI-DADE COUNTY, FLORIDA



Request for Information No. 7

e-Procurement Solutions

**Issued by e-mail:** October 10, 2000      **Reply by:** October 17, 2000

The Department of Procurement Management of Miami-Dade County, Florida seeks qualified and experienced providers of e-procurement solutions to respond to the following questionnaire that will help Miami-Dade County review available off-the-shelf technology to address the procurement management requirements of Miami-Dade County.

Miami-Dade County's Office of the Chief Information Officer (CIO) has created a working group with the vision that Miami-Dade County will utilize an electronic and "on-line" environment to operate and manage its procurement activities. The group evaluate procurement business processes and promote process re-engineering to harness and maximize the benefits of the electronic environment. The goals are:

- a. Focus on the procurement management requirements of Miami-Dade County and of each department; review available off-the-shelf technology
- b. Consider current processes in place and recommend a migration strategy to achieve an electronic procurement environment
- c. Recommend a Miami-Dade County-wide solution to the CIO. There may be no single solution to satisfy all requirements, but the group's recommendations must address the standards to be used to make recommended solutions interoperable.

Please complete and return the following questionnaire not later than Tuesday, October 17, 2000. If readily available, we would appreciate receiving descriptive material on your solution(s) and / or product(s). **Reply and contact information appears on the last page.**

Please answer the following questions *as briefly as possible*:

### **A. Company information.**

- 1) Company name:
- 2) Address:
- 3) Contact name:
- 4) Phone number:
- 5) Fax number:
- 6) E-mail address:

- B. Functionality** (Briefly describe the functionality of your product or products)
- C. Technical Architecture** (Briefly describe the overall design of your product as well as how components integrate and interact with other applications and each other)
- D. Particular Expertise** (Briefly describe your company's software applications and/or consulting expertise)
- E. Background Information:**
- 1) Number of years you've been providing e-procurement solution(s):
  - 2) Primary client type(s):
- F. Installation and hardware:**
- 1) Operating system required to install and use your solution(s):
  - 2) Optimum system requirements:
  - 3) Minimum system requirements:
- G. Support and maintenance:**
- 1) What are your technical support hours?
  - 2) Are telephone-support calls toll free?
- H. Additional information:**
- 1) Can your program (s) be evaluated using actual data before purchase?
  - 2) How many governmental clients are currently using your software? Please identify them.
  - 3) Please provide at least three current customer references (preferably public-sector clients) with the name and telephone number of contact persons for each.
  - 4) Are there any additional features that might distinguish your program (s) from others?

**Thank you for your response.** This survey is requested by Leonor Marrero, Department of Procurement Management, Miami-Dade County. Questions can be directed to (305) 375-3045. Your completed survey can be saved and sent as an attachment to: [LKHUD@co.miami-dade.fl.us](mailto:LKHUD@co.miami-dade.fl.us). Alternatively, fax to: (305) 372-6128; or mail to: Department of Procurement Management, 111 N.W. 1 Street, Suite 2350, Miami, FL 33128, Attention: Leonor Marrero. **We must receive your completed questionnaire not later than Tuesday, October 17, 2000.** Again, we thank you for your participation and interest.



## Appendix G - RFI # 7 Evaluation Form

<b>COMPANY NAME</b>		<b>Total Points</b>
1. Functionality (0-15 pts.)		
2. Technical Architecture (0-10pts.)		
3. Particular Expertise (0-15 pts.)		
4. Background Information (0-15 pts.)		
Number of Years e-procurement Solutions	Primary Client	
5. Installation and hardware (0-10 pts.)		
6. Additional Information (0-10 pts.)		
<b>TOTAL</b>		<div style="border-bottom: 1px solid black; width: 80px; margin: 0 auto;"></div>

## Appendix H - Respondents to RFI # 7

AMERICAN MANAGEMENT SYSTEM (AMS)  
ANACOP INC.  
ANDERSEN CONSULTING, LLP  
AQUILIUM SOFTWARE CORPORATION  
ARIBA INC.  
ATTACHMATE  
COMPUSA CORPORATION  
DATAGATE INC  
DEMANDSTAR  
DIGITAL COMMERCE CORPORATION  
ERNST & YOUNG LLP  
FIRE INSTRUCTOR TESTING SOFTWARE LLC  
GOCO-OP INC  
IBM  
INFORMATION BUILDERS, INC.  
INFORMATION SYSTEMS MANAGER INC  
INTERNATIONAL DATA BASE CORP., D.B.A. BIDNET  
KLU KLU & KLU INC  
KPMG CONSULTING, LLP  
LEVI, RAY & SHOUP, INC.  
MARKETEX STORAGE SYSTEMS, INC.  
METIOM INC  
MOORE NORTH AMERICA  
NETVANTAGE INC.  
ORACLE CORPORATION  
PROCUREMENT CENTRAL INC  
SAP PUBLIC SECTOR & EDUCATION INC

SAS INSTITUTE INC.

SOFTWARE HOUSE INTERNATIONAL INC.

STANDARD REGISTER

STERLING COMMERCE

THE HUNTER GROUP

TRANSPARENT TECHNOLOGY

UNISYS

WAREFORCE INC.

XP SOFTWARE

ZEPCO SALES & SERVICE INC

## Appendix I – Vendor Demo List

AMERICAN MANAGEMENT SYSTEM (AMS)

ARIBA INC.

DEMANDSTAR

DIGITAL COMMERCE CORPORATION

ERNST & YOUNG LLP

GOCO-OP INC

IBM

INFORMATION BUILDERS, INC.

KPMG CONSULTING, LLP

METIOM INC

ORACLE CORPORATION

## Appendix J – Vendor Demo Evaluation Form

VENDOR: \_\_\_\_\_

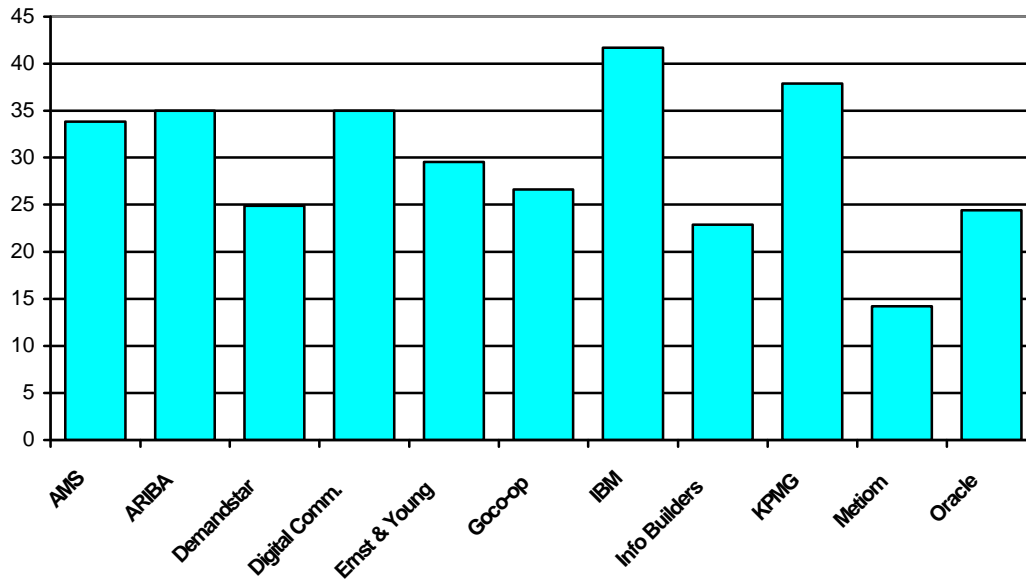
	High				
Ability to Integrate with other county systems, mainly ADPICS/FAMIS					
Ability to allow manual as well as electronic processing of documents					
Ability to allow for Small/Minority measures					
Security and Privacy					
Supports Secure Sockets Layer? <input type="radio"/> YES <input type="radio"/> NO					
Supports Secure Electronic Transactions Transaction? <input type="radio"/> YES <input type="radio"/> NO					
Ability to adapt to future technology					
Will customization of product be required? <input type="radio"/> YES <input type="radio"/> NO					
Seamless presentation of data? <input type="radio"/> YES <input type="radio"/> NO					
Support for e-signature? <input type="radio"/> YES <input type="radio"/> NO					
Other products needed? <input type="radio"/> YES <input type="radio"/> NO					
Support Catalogs					
Support Shopping Baskets					
End-User Ease of User Interface					
Demonstrate expertise with other governmental agencies					
Consulting expertise and skill to transfer knowledge					
Pricing structure					

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Appendix K – Evaluation of Demos



VENDOR	SCORE
IBM	41.71
KPMG CONSULTING, LLP	37.90
ARIBA INC.	35.00
DIGITAL COMMERCE CORPORATION	35.00
AMERICAN MANAGEMENT SYSTEM (AMS)	33.86
ERNST & YOUNG LLP	29.55
GOCO-OP INC	26.60
DEMANDSTAR	24.89
ORACLE CORPORATION	24.40
INFORMATION BUILDERS, INC.	22.86
METIOM INC	14.20